

# CLAIMS RESOLUTION TRIBUNAL

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In re Holocaust Victim Assets Litigation  
Case No. CV96-4849

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Elisabeth Beit Von Speyer**

Claim Number: 402250/NB

Award Amount: 774,799.88 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Elisabeth Beit Von Speyer, née de Neufville, (the “Account Owner”) at the Zurich branch of the [REDACTED] (“Bank I”) and at the [REDACTED] (“Bank II”) (together the “Banks”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

### **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as his mother, Elisabeth Beit Von Speyer, née de Neufville, who was born on 21 May 1902 in Frankfurt, Germany, to Dr. phil. [REDACTED] and [REDACTED], née [REDACTED]. The Claimant explained that his mother, who was Jewish, was married on 4 August 1923 in Frankfurt to [REDACTED], and that they had three children: the Claimant, his sister [REDACTED], née [REDACTED], and his brother [REDACTED]. The Claimant explained that his mother, who was a physical therapist, resided with her family at 5 Paul Ehrlichstrasse in Frankfurt, until 20 December 1934, when they fled Nazi Germany to Switzerland, where they resided at Villa Heimli in Arosa from 1934 to 1937, at Villa Algovia in Arosa from 1937 to 1939, and in Geneva until 1941. The Claimant stated that in March 1941, his family traveled through France, Spain and Portugal, until 15 May 1941, when they were able to secure visas to emigrate to New York, the United States, where they settled. The Claimant stated that his parents were divorced on 31 December 1945, and that his mother then married [REDACTED]. The Claimant finally indicated that his father and his mother passed away on 26 July 1961, and 26 April 1989, respectively.

In support of his claim, the Claimant submitted copies of: (1) his family tree, which indicates that he is the grandson of [REDACTED] and [REDACTED], née [REDACTED], and the son of Elisabeth Beit Von Speyer, née de Neufville, and [REDACTED]; (2) his mother’s German passport, issued in Davos, Switzerland, on 18 March 1938, to Elisabeth Beit Von Speyer, née de

Neufville, who was born on 21 May 1902 in Frankfurt, Germany, and which bears various stamps issued by the consulates of France, Spain and Portugal, as well as a visa stamp for the United States, dated 15 May 1941; (3) his identification card, issued in 1934 in Frankfurt, which indicates that he was born on 9 October 1930, and that he resided in Arosa, Switzerland; and (4) his mother's last will, which indicates that Elisabeth de Neufville [REDACTED]'s residual property was to be inherited by her children, [REDACTED], [REDACTED], and [REDACTED].

The Claimant indicated that he was born on 9 October 1930 in Frankfurt, Germany.

### **Information Available in the Bank's Records**

The CRT notes that the auditors who carried out the investigation of these Banks to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Elisabeth Beit Von Speyer during their investigation of the Banks. The documents evidencing the accounts belonging to Elisabeth Beit Von Speyer were obtained from archival sources in Germany, and are described in detail below.

### **Information Available from the German Archives**

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Archive of the Regional Tax Office in Berlin (*Oberfinanzdirektion Berlin*),<sup>1</sup> there are documents concerning the assets of Elisabeth Beit Von Speyer, née de Neufville, numbered 922/5393.

These documents indicate that Elisabeth Beit Von Speyer, née de Neufville, was born on 21 May 1902, that she was married to [REDACTED], that she resided at Villa Algovia in Arosa, Switzerland, where she signed the assets declaration on 25 July 1938.

According to the archival records, Elisabeth Beit Von Speyer owned an account, the type of which is not indicated, at Bank I. Elisabeth Beit Von Speyer indicated that the account was denominated in both Swiss Francs ("SF") and United States Dollars ("US \$"), and that it had balances of SF 13,402.45 and US \$5,167.40. She also stated that she owned securities with a total value of 87,242.40 Reichsmark ("RM") at Bank I, Bank II and at the German bank *Georg Hauck & Son Bankhaus*, but she did not indicate how these securities were distributed among these three banks.

These records further indicate that Elisabeth Beit Von Speyer was assessed atonement tax (*Judenvermögensabgabe*) of RM 31,600.00, based on estimated total assets of RM 158,688.00, due in four installments of RM 7,900.00, starting January 1939.

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<sup>1</sup> These documents have since been moved to the Federal Office for Central Services and Unresolved Property Issues, Restitution Archive: Documents from the Nazi Era (*Bundesamt für zentrale Dienste und offene Vermögensfragen, Rückerstattungsarchiv: Archivalien aus der NS-Zeit*).

In addition to her declaration, Elisabeth Beit Von Speyer filed a petition with the Police Headquarters (*Polizei-Prasidium*) and the Tax Office Moabit-West, in Berlin, contesting the assessment of the atonement tax. In two letters, dated 17 and 28 January 1939, she argued that she divorced [REDACTED] (who was Jewish) on 17 November 1938, with the judgment having legal effect on 5 December 1938, and that she should not be subject to the atonement tax, since her parents, Dr. phil. [REDACTED] and [REDACTED], née [REDACTED], were not Jewish. She argued that since her divorce was final, she was not a “full Jew” but of “mixed race” (*Mischling I. Grades*), and therefore not required to pay atonement tax. In a letter dated 15 February 1939, Elisabeth Beit Von Speyer added that pursuant to the double taxation agreement between Germany and Switzerland, she should not, as a German citizen residing in Switzerland, be subject to asset taxes.

In a letter dated 14 February 1939, the German bank *Georg Hauck & Son Bankhaus* advised the Tax Office Moabit-West, in Berlin that it had been instructed by its client to pay the Tax Office Moabit-West the sum of RM 7,900.00 from the sale of securities as the second installment of Elisabeth Beit Von Speyer’s atonement tax. *Georg Hauck & Son Bankhaus* indicated that no assets were available in the account other than Elisabeth Beit Von Speyer’s securities. In a subsequent letter, dated 3 May 1939, *Georg Hauck & Son Bankhaus* advised the Tax Office Moabit-West that these instructions had been withdrawn in light of the petition filed by Elisabeth Beit Von Speyer.

The German archival records contain an internal memorandum from Nazi authorities in response to Elisabeth Beit Von Speyer’s petition, stating that Elisabeth Beit Von Speyer, née de Neufville, was considered to be full Jewish because she was married to a Jew on 16 September 1935, which date determined such status under Nazi racial laws. The authorities concluded that she was therefore subject to atonement tax, which was not deemed to be an asset tax for purposes of the implementation of the double taxation agreement.

In a letter dated 6 July 1939, *Georg Hauck & Son Bankhaus* advised the Tax Office Moabit-West that it had been instructed to pay the last three installments towards the payment of Elisabeth Beit Von Speyer’s atonement tax, with payment structured as follows: RM 23,562.05 worth of securities and RM 137.95 in liquidated assets, for a total of RM 23,700.00.

Furthermore, in her asset declaration, Elisabeth Beit Von Speyer indicated that she owned one-sixth of the estate of her father, Dr. phil. [REDACTED], who passed away on 19 August 1937. She stated that the estate was to be divided equally with her sister, the Countess [REDACTED], who resided in Freiburg, Germany, and her four brothers, [REDACTED], who resided in France, [REDACTED], [REDACTED], and [REDACTED], who resided in the United States. Elisabeth Beit Von Speyer valued her share of the estate at RM 14,000.00. The asset declaration finally indicates that she owned participation shares of a shipping company, *Reederei Siebert & Co*, valued at RM 9,420.00.

The German archival records do not contain any information about the disposition of the accounts held at the Banks. There is no evidence in these records that the Account Owner or her heirs closed the accounts and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's mother's name matches the published name of the Account Owner. The Claimant identified the Account Owner's maiden name, date of birth, street address, husband's name, as well as the Account Owner's parents' names, mother's maiden name, and father's title, all of which match unpublished information about the Account Owner as contained in the German archival records.

In support of his claim, the Claimant submitted documents, including his mother's German passport and her will, providing independent verification that the person who is claimed to be the Account Owner had the same name, maiden name, date of birth, city and country of residence recorded in the German Archives, as the name, maiden name, date of birth, city and country of residence of the Account Owner.

The Claimant's mother's passport also contains a sample of Elisabeth Beit Von Speyer's signature, which matches the signature of the Account Owner contained in the German archival records.

The CRT notes that there are no other claims to these accounts.

### Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and lived in Nazi Germany until 1934, when she fled to Switzerland. The CRT notes that the Account Owner was required to declare her assets pursuant to the 1938 Census and forced to pay atonement tax, after a finding by Nazi authorities that, pursuant to its racial laws, she was considered to be a "full Jew."

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's mother. These documents include his mother's German passport and will, which indicate that Elisabeth de Neufville [REDACTED], formerly Elisabeth Beit Von Speyer, née de Neufville, was his mother. The CRT notes that the Claimant indicated that he had two siblings, but since neither they nor their descendants have filed claims or are represented by the Claimant, the CRT will not consider their entitlement in this decision.

### The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the

Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the accounts ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that the Account Owner resided in Nazi Germany until she fled for Switzerland in 1934, and subsequently emigrated to the United States in 1941, and therefore could not have repatriated the accounts without losing ultimate control over their proceeds; that the Account Owner and her heirs would not have been able to obtain information about her accounts after the Second World War from the Banks due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (d), (h) and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his mother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor her heirs received the proceeds of the claimed accounts.

#### Amount of the Award

The Account Owner indicated in her 1938 Census declaration that she held one account of unknown type at Bank I, which had balances of SF 13,402.45 and US \$5,167.40 (which was equivalent to SF 22,581.54),<sup>2</sup> for a total balance of SF 35,983.99, as of 27 April 1938.

The 1938 Census declaration further evidences the existence of two custody accounts, one each at Bank I and Bank II. The CRT notes that the archival records do not specify the amount of securities held in each custody account. Accordingly, the CRT shall treat the balances of these accounts as unknown. Under Article 29 of the Rules, when the balance of an account is unknown, the average value of the same or a similar type of account in 1945 is used to calculate the value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00. Therefore, these accounts shall be valued at the 1945 average value of SF 13,000.00 each, for a total of SF 26,000.00 for the two account.

Accordingly, in this case, the Account Owner held one account of unknown type at Bank I with a balance of SF 35,983.99, and two custody accounts at the Bank I and II valued at SF 26,000.00, resulting in a total combined value of SF 61,983.99, for the three accounts at issue. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 774,799.88.

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<sup>2</sup> The CRT uses official exchange rates when making currency conversions.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

### **Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
16 October 2008