

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]

in re Account of Marianne Spiegel, Leo Spiegel, and Otto Spiegel

Claim Number: 771694/HB¹

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (the “Claimant”) to the account of Josefine Spiegel.² This Award is to the published account of Leo Spiegel (“Account Owner Leo Spiegel”), Marianne Spiegel (“Account Owner Marianne Spiegel”) and Otto Spiegel (“Account Owner Otto Spiegel”) (together the “Account Owners”), over which Armin Spitz (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).³

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 an Initial Questionnaire (“IQ”) identifying Account Owner Leo Spiegel and Account Owner Otto Spiegel as her father and her father’s brother, respectively. In a

¹ [REDACTED 1] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0062171, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 771694.

² The CRT did not locate an account belonging to Josefine Spiegel in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

³ The CRT notes that on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Leo Spiegel and Marianne Spiegel appear as the account owners. Upon careful review, the CRT has determined that the account was owned by three persons: Leo Spiegel, Otto Spiegel, and Marianne Spiegel.

telephone conversation with the CRT, the Claimant explained that her father, Leo Spiegel, was born on 6 June 1890 in Graz, and was married to [REDACTED], née [REDACTED], on 2 December 1922 or 1923 in Graz. The Claimant explained that her uncle, Otto Spiegel, was born in Graz and was married to Dr. Manka (Marianne) Spiegel, née Aglar, who was also born in Graz. According to the Claimant, her father, who was Jewish, was a lawyer and a bank manager in Graz, where he resided at Schmidgasse 38. The Claimant indicated that on 13 November 1938, shortly after the *Kristallnacht* (“Night of Broken Glass”) pogrom, her father fled Austria.

The Claimant stated that her aunt and uncle, who were Jewish, resided at Beethovenstrasse 17 in Graz, and had two children, [REDACTED] (formerly Spiegel) and [REDACTED 2]. The Claimant explained that in 1935, his aunt and uncle divorced, and his aunt, together with her two sons, emigrated to Palestine (now Israel), where she resided in Jerusalem and worked for the university there. The Claimant stated that her uncle, Otto Spiegel, remained in Graz and re-married, and that after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”), he fled to France via Switzerland, and was imprisoned in a concentration camp in France. The Claimant stated that his uncle passed away after the end of the Second World War, in approximately 1945.

The Claimant stated that her aunt and cousin, [REDACTED], passed away in Israel, and that [REDACTED] had one daughter, [REDACTED 3], née [REDACTED], who currently lives in Israel.

The Claimant indicated she was born on 20 October 1925 in Graz. The Claimant is representing her cousin (the son of Otto and Marianne Spiegel), [REDACTED 2], who was born in Graz, and her cousin [REDACTED]’s daughter, [REDACTED 3], who was born in Jerusalem.

Information Available in the Bank’s Records

The Bank’s records consist of a report from the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”). According to this report, the Account Owners were Leo and Marianne Spiegel, who resided in Graz, Austria, and the Power of Attorney Holder was Armin Spitz.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about this account (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents consist of two Power of Attorney Forms, a customer card, and a form granting permission to hold an account at the Bank (*Zustimmungserklärung des Ehemannes*). According to these records, the Account Owners were *Frau* (Mrs.) Dr. Marianne Spiegel, née Aglar, Dr. Otto Spiegel, and Leo Spiegel, and the Power of Attorney Holder was *Herr* (Mr.) Armin Spitz. The Bank records indicate that Account Owner Marianne Spiegel and Account Owner Otto Spiegel were married to each other and resided at Beethovenstrasse 17 in Graz, Austria, that Account Owner Leo Spiegel resided in Schmidgasse 38 in Graz, and that the Power of Attorney Holder resided at Herrengasse 26 in Graz.

The Bank's records indicate that the Account Owners held an account, the type of which is not indicated. The Bank's records do not indicate the value of this account. The auditors who carried out the ICEP Investigation did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that the Account Owners, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's father's name and city and country of residence match the published name and city and country of residence of Account Owner Leo Spiegel. The Claimant identified Account Owner Leo Spiegel's street address, which matches unpublished information about Account Owner Leo Spiegel contained in the Bank's records. The Claimant further identified Account Owner Otto Spiegel's name, street address, spouse's name, and Account Owner Marianne Spiegel's name,⁴ street address, spouse's name, and title, which matches unpublished information about Account Owner Otto Spiegel and Account Owner Marianne Spiegel contained in the Bank's records.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Josefine Spiegel, Otto Spiegel or Leo Spiegel, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT also notes that the names Leo Spiegel and Marianne Spiegel appear only once on the ICEP List. Finally, the CRT notes that the other claims to this account were disconfirmed because that claimant provided a different city and country of residence than the city and country of residence of the Account Owners.

Status of the Account Owners as Victims or Targets of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Leo Spiegel and Account Owner Otto Spiegel were Victims of Nazi Persecution. The Claimant stated that her father and

⁴ The CRT notes that the Claimant indicated that her aunt's first name was Manka, while the Bank's records indicate that her name was Marianne. However, given that the Claimant identified her aunt's unpublished maiden name, title, and street address, the CRT finds that this discrepancy does not adversely affect the Claimant's identification of Account Owner Marianne Spiegel.

uncle were Jewish, and that they both resided in Austria after the *Anschluss*. The Claimant further stated that her father fled Austria on 13 November 1938, and that her uncle fled to France, where he was later imprisoned in a concentration camp. The CRT notes that the Claimant stated that Marianne Spiegel emigrated to Israel in 1935. However, given that her former husband remained in Austria until after the *Anschluss*, and that she emigrated after the rise of the Nazis in Germany in 1933, the CRT considers that she was a Target of Nazi Persecution.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific biographical information, demonstrating that Account Owner Leo Spiegel was the Claimant's father, that Account Owner Otto Spiegel was the Claimant's paternal uncle, and that Account Owner Marianne Spiegel was the Claimant's paternal aunt by marriage. There is no information to indicate that the Account Owners have other surviving heirs other than the parties whom the Claimant is representing.

The CRT further notes that the Claimant identified unpublished information about the Account Owners as contained in the Bank's records; that the Claimant filed an IQ with the Court in 1999, identifying the familial relationship between Account Owner Leo Spiegel and Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her Claim Form.

The Issue of Who Received the Proceeds

Given that Account Owner Leo Spiegel and Account Owner Otto Spiegel fled Austria after the *Anschluss*, that Account Owner Otto Spiegel was imprisoned in a concentration camp in France; that there is no record of the payment of the Account Owners' account to them, nor any record of a date of closure of the account; that the Account Owners and their heirs would not have been able to obtain information about their account after the Second World War from the Bank 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 (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 Owners, the Power of Attorney Holder, or their 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 and the parties she represents. First, the claim is admissible in accordance with the criteria contained in Article

18 of the Rules. Second, the Claimant has plausibly demonstrated that that Account Owner Leo Spiegel was her father, that Account Owner Otto Spiegel was her uncle, and that Account Owner Marianne Spiegel was her aunt, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owners held one account of unknown type. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an unknown type account of unknown type was 3,950.00 Swiss Francs (“SF”). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 25(1) of the Rules, if an account is a joint account and Claimants related to each of the Account Owners have submitted claims to the account, it shall be presumed that each Account Owner was the owner of an equal share of the account. Furthermore, according to Article 23(1)(c) of the Rules, if the Account Owners’ spouses have not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim in equal shares by representation. In this case, the Claimant is Account Owner Leo Spiegel’s daughter, and is representing [REDACTED 2], who is the son of Account Owners Marianne and Otto Spiegel, and [REDACTED 3], who is the daughter of Account Owner Marianne and Otto Spiegel’s son [REDACTED].

The CRT notes that the Claimant, as the descendant of Account Owner Leo Spiegel, is more entitled to the third of the account presumed to have been owned by Account Owner Leo Spiegel, and that [REDACTED 2] and [REDACTED 3], as the descendants of Account Owners Marianne and Otto Spiegel, are more entitled to the two-thirds of the account presumed to have been owned by Account Owners Marianne Spiegel. Accordingly, the Claimant is entitled to one third of the total award amount, represented party [REDACTED 2] is entitled to one third of the total award amount, and represented party [REDACTED 3] is entitled to one third of the total award amount.

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 her claim to determine whether there are additional Swiss bank accounts to which she 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
23 June 2008