

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED1]
represented by [REDACTED],

to Claimant [REDACTED2],

and to Claimant [REDACTED3]
acting also on behalf of [REDACTED] and [REDACTED]

in re Accounts of Salamon Spiegel

Claim Numbers: 204227/MO, 212830/MO, 212865/MO, 214626/MO¹

Award Amount: 1,494,859.92 Swiss Francs

This Certified Award is based upon the claims of [REDACTED1], née [REDACTED1], (“Claimant [REDACTED1]”) to the accounts of Salamon Spiegel and Lenke Spiegel; the claim of [REDACTED2] (“Claimant [REDACTED2]”) to the account of Lenke Spiegel; and the claim of [REDACTED3] (“Claimant [REDACTED3]”) (together the “Claimants”) to the accounts of Salamon Spiegel. This Award is to the accounts of Salamon Spiegel (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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 Claimants

Claimant [REDACTED1] submitted two Claim Forms identifying the Account Owner as her father-in-law, Salamon Spiegel, who was born on 20 November 1880 in Velka Berezna, Austro-Hungary (now Velikiy Bereznyy, Ukraine), and was married to Lenke Spiegel, née Kroo, who was born in 14 May 1880. Claimant [REDACTED1] identified her father-in-law as a businessman who owned a beer wholesale business in Humenné, Czechoslovakia. Claimant [REDACTED1] also stated that her parents-in-law, who were Jewish, lived in Humenné from 1927 until 1943, when they fled to Budapest, Hungary. According to Claimant [REDACTED1], in 1944, her mother-in-law died in a hospital in Budapest and her father-in-law was deported to a

¹ Claimant [REDACTED3] submitted an additional claim to the account of his father, [REDACTED], which is registered under the Claim Number 214588. The CRT will treat the claim to this account in a separate decision.

concentration camp, where he perished. Claimant [REDACTED1] stated that her father-in-law had two sons, Vojtech (also known as Bela), who was born on 26 May 1907 in Uzhorod, Austro-Hungary (now Uzgorod, Ukraine), and Ludowit (also known as Lajci), who was born there on 26 May 1908. Claimant [REDACTED1] indicated that she was born on 13 January 1918 in Humenné and that she was married to Vojtech Spiegel. Claimant [REDACTED1] indicated that she and Vojtech Spiegel had no children. In support of her claim, Claimant [REDACTED1] submitted various documents, including copies of the birth, marriage and death certificates of Vojtech Spiegel as well as his citizenship card. According to these documents, Vojtech Spiegel was a pharmacist, was married to Claimant [REDACTED1] on 28 December 1946 in Humenné, and died on 24 January 1996, in Košice, Slovakia. Claimant [REDACTED1] submitted the citizenship card of her father-in-law, which states his occupation as a shop owner.

Claimant [REDACTED2] submitted a Claim Form identifying the Account Owner as Salomon Spiegel, the husband of his paternal great-aunt, Lenke Spiegel, née Kroo. Claimant [REDACTED2] stated that his great-aunt Lenke Spiegel was born in Mukacevo, Austro-Hungary, and that she was the daughter of [REDACTED] and [REDACTED]. Claimant [REDACTED2] indicated that his great-aunt later moved to Humenné, Czechoslovakia. Claimant [REDACTED2] further stated that his great-aunt, who was Jewish, was persecuted during the Second World War and fled with her husband to Budapest, Hungary, where they were murdered in 1943 or 1944. Claimant [REDACTED2] stated that Lenke and Salomon Spiegel had two children, Ludowit (also known as Leslie) and Vojtech (also known as Bela), both of whom died without issue. Claimant [REDACTED2] further stated that his great-aunt was from a wealthy family. Furthermore, Claimant [REDACTED2] stated that he was born on 16 January 1953 in Prague, Czechoslovakia, and that he is the grandson of [REDACTED], who was the brother of Lenke Spiegel. In support of his claim, Claimant [REDACTED2] provided various documents, including copies of his parents' marriage certificate, his birth certificate, and his father's death certificate.

Claimant [REDACTED3] submitted a Claim Form identifying the Account Owner as his paternal uncle, Salomon Spiegel. Claimant [REDACTED3] stated that his uncle was born in 1881 in Nagyberenza, Austro-Hungary (now Ukraine), and was married there to Lenke Spiegel, née Kroo. According to Claimant [REDACTED3], his uncle was the son of [REDACTED] and [REDACTED]. Claimant [REDACTED3] identified his uncle as the owner of a beer and spirits wholesale business in Humenné, Czechoslovakia. Claimant [REDACTED3] further stated that his uncle, who was Jewish, was in hiding in Hungary during the Second World War and that he perished in Budapest, Hungary, around 1944. Claimant [REDACTED3] indicated that his aunt also perished in the Holocaust. Claimant [REDACTED3] stated that his uncle had two sons, Vojtech, who was born in approximately 1908 in Humenné and died in Slovakia, and Ludowit, who was born in approximately 1909 in Humenné and died in California, the United States. Claimant [REDACTED3] further stated that neither Vojtech Spiegel nor Ludowit Spiegel ever married or had children. Claimant [REDACTED3] stated that he was born in Nagyberenza, Austro-Hungary on 25 December 1912, and that he is the son of [REDACTED], who was the brother of Salomon Spiegel. Claimant [REDACTED3] is representing his sister, [REDACTED], née [REDACTED], who was born on 14 February 1916 in Nagyberenza, and his brother [REDACTED], who was born there on 31 December 1917.

Information Available in the Bank Records

The bank records include power of attorney forms, a safe deposit box contract, an account opening card, balance sheets, printouts from the Bank's database, and correspondence. According to these records, the Account Owner was Salamon Spiegel, who lived in Humenné, Czechoslovakia and held four accounts at the Bank: a safe deposit account, numbered 1479, a custody account², and two demand deposit accounts. According to the bank records, Frau Lenke Spiegel, née Kroo, the wife of the Account Owner, Dr. Vojtech Spiegel, the son of the Account Owner, and Mr. Ludowit Spiegel, all of whom resided in Humenné, were Power of Attorney Holders for the safe deposit account. Lenke Spiegel, née Kroo, was also the Power of Attorney Holder for the custody account. The power of attorney authorization for this account shows that the Account Owner was a spirits and beer trader.

According to the bank records, the safe deposit account was opened on 16 November 1931. The bank records indicate that in November 1941 the Account Owner could no longer be reached, and due to unpaid rental fees of 151.00 Swiss Francs, the safe was forcibly opened and a handwritten notation indicates that it was found empty by the Bank on 10 November 1941. These records further indicate that the safe deposit account was closed on 28 November 1941 by the Bank. The bank records show that the Bank was instructed to hold all correspondence to the Account Owner.

The bank records indicate that the two demand deposit accounts were held in United States Dollars and that on 2 November 1931 the values of these accounts were 2,275.15 United States Dollars and 19,389.25 United States Dollars, respectively. The subsequent balances of these accounts are unknown. The bank records do not show when these accounts were opened, if or when they were closed, or to whom they were paid. 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") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed.

The bank records indicate that the custody account was open by 10 November 1931. The bank records do not show if or when this account was closed, or to whom it was paid, nor do these records indicate the value of the 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.

There is no evidence in the bank records that the Account Owner, the Power of Attorney Holders, or their heirs closed the safe deposit account, custody account, or the demand deposit accounts and received the proceeds themselves.

The bank records also contain correspondence between Leslie (Ludowit) Spiegel and the Bank. In a letter dated 18 December 1967 from Los Angeles, California, Leslie Spiegel requested the

² The bank records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. The CRT concludes that it is plausible that the Account Owner held such an account.

Bank to confirm that a transfer of 1,000.00 United States Dollars took place in 1931 from the Bank to a bank in Hungary. Leslie Spiegel also stated in this letter that he was the son of the deceased Salamon Spiegel. An internal note of the Bank written on Leslie Spiegel's letter indicates that in 1931 there was a transfer of 1,000.00 United States Dollars from one of the demand deposit accounts of Salamon Spiegel to a company of Salamon Spiegel. However, in a reply dated 12 January 1968, the Bank informed Leslie Spiegel that it was not able to answer his question because, under Swiss law, banks were not required to keep bank records for more than 10 years. The bank records also contain a standardized contract between the Account Owner and the Bank, whereby the Account Owner declares on 16 August 1938 that he agrees not to keep any Swiss currency in his safe deposit box pursuant to directions from the Swiss National Bank.

The CRT's Analysis

Joinder of Claims

According to Article 43(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the four claims of the Claimants in one proceeding.

Identification of the Account Owner

Each of the Claimants has plausibly identified the Account Owner. The names and the city of residence of the Claimants' relatives match the published names and city of residence of the Account Owner and the Power of Attorney Holders. Claimants [REDACTED1] and [REDACTED3] identified Salamon Spiegel's occupation, which matches the unpublished occupation of the Account Owner contained in the bank records. The details given and the relationships identified by Claimant [REDACTED2] correspond with those provided by Claimants [REDACTED1] and [REDACTED3]. Moreover, the Claimants identified the family relations between the Account Owner and the Power of Attorney Holders, which match unpublished information contained in the bank records. Finally, Claimant [REDACTED2] provided an alternate first name of one of the Power of Attorney Holders, which matches unpublished information contained in the bank records.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have plausibly shown that the Account Owner was a Victim of Nazi Persecution. Each of the Claimants stated that the Account Owner was Jewish and was persecuted by the Nazis while living in Czechoslovakia and Hungary during the Second World War. Each of the Claimants also stated that the Account Owner perished in 1943 or 1944.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Salomon Spiegel, and indicates that he was born in 1881 in Velka Berezna and resided in Humenné, Czechoslovakia and in Budapest, Hungary, which substantially matches the information about the Account Owner provided by the Claimants. The

database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED1] has plausibly demonstrated that the Account Owner was her father-in-law. Specifically, she has plausibly demonstrated that she is the widow of one of the Account Owner's sons, Vojtech Spiegel, by providing documentation including his birth, marriage and death certificates. Claimant [REDACTED3] has plausibly demonstrated that he and the siblings he represents are nephews and nieces of Account Owner by providing information that corresponds to the information provided by Claimant [REDACTED1]. Claimant [REDACTED2] has plausibly demonstrated that he is the great-nephew of the wife of the Account Owner by submitting documents including Claimant [REDACTED2]'s birth certificate, his parents' marriage certificate, and his father's death certificate indicating that his grandfather's name was [REDACTED]. Each of the Claimants stated that the Account Owner's children, Ludowit Spiegel and Vojtech Spiegel, died without issue. There is no information to indicate that the Account Owner has other surviving heirs.

According to Article 29(1)(c) of the Rules, if the Account Owner's spouse has 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. Furthermore, according to Article 29(1)(f) of the Rules, if a child of the Account Owner is deceased and that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner for the purposes of this Article. Here, Claimant [REDACTED1], who is the spouse of the Account Owner's child, Vojtech Spiegel, has submitted claims to the accounts at issue. Furthermore, as indicated by the Claimants, Vojtech Spiegel died without children. It is therefore concluded that, under Article 29(1)(c) and (f) of the Rules, Claimant [REDACTED1] has a superior claim to the accounts at issue than do Claimant [REDACTED3] and his siblings, who are descendants of the Account Owner's parents, or Claimant [REDACTED2], who is a descendant of the parents of the Account Owner's spouse.

The Issue of Who Received the Proceeds

The bank records indicate that, due to unpaid rental fees, the safe deposit box was forcibly opened by the Bank on 10 November 1941, when the account was found empty. The account was then closed by the Bank on 28 November 1941.

With regard to the other accounts, given the application of Presumptions (f), (h), and (j) contained in Appendix A,³ the CRT concludes that it is plausible that the proceeds of the custody account and the demand deposit accounts were not paid to the Account Owner, the Power of Attorney Holders, 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.

³ An expanded version of Appendix A appears on the CRT II website -- www.crt-ii.org.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED1]. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules. Second, Claimant [REDACTED1] has plausibly demonstrated that the Account Owner was her father-in-law, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

The Account Owner in this case held two demand deposit accounts for which there are known values, and one safe deposit box and one custody account for which there are no known values.

Regarding the safe deposit box, the bank records state that the safe deposit box was forcibly opened in November of 1941, at which time the box was found empty. Consequently, no award will be made for this account.

Regarding the demand deposit accounts, the bank records indicate that the values of the two demand deposit accounts as of 2 November 1931 were 2,275.15 United States Dollars and 19,389.25 United States Dollars, respectively. Although the only available values of these accounts are from 1931, in the absence of evidence of a change in value between 1931 and 1945, in this case the CRT will use the 1931 values for the purpose of determining the account values. Using the 1931 average exchange rate from United States Dollars to Swiss Francs, the historic values of the two demand deposit accounts were 11,717.02 Swiss Francs and 99,854.64 Swiss Francs, respectively.

Regarding the custody account, pursuant to Article 35 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. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs.

The total historical value of the two demand deposit account and the custody account is 124,571.66 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 1,494,859.92 Swiss Francs.

Division of the Award

As indicated above, Claimant [REDACTED1] is entitled to 100% of the award amount.

Initial Payment

In this case, Claimant [REDACTED1] is age 75 or older and is therefore entitled to receive payment of 100% of the total award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 25 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 January 2003

APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:¹

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;²
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.³

¹ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999)

(hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

² See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

³ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).