

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Liselott Cohen

in re Account of Berthold Spiegel and Hedwig (Leipziger) Spiegel

Claim Numbers: 203323/KB; 207242/KB

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of Liselott Cohen (the "Claimant") to the Account of Berthold Spiegel and Hedwig Spiegel (the "Account Owners").

Information Provided by the Claimant

The Claimant submitted Claim Forms indicating that the Account Owners were her father Berthold Spiegel, who was born in 1871, in Gleiwitz, Germany, and her mother Hedwig Leipziger, born in 1890, in Beuthen, Germany. The Claimant further stated that her parents were married in October 1916. The Claimant stated that she was the only child of the Account Owners and that she was born on 3 July 1919, in Berlin.

The Claimant stated that Berthold Spiegel was an executive with the firm *Oberschlesische Braunkohlen AG*, and that he lived at 12a Levetzowstrasse, Berlin. The Claimant further stated that Berthold Spiegel was deported by the Nazis in March 1943, and she recorded this date as his date of death. The Claimant recorded the same date of death for her mother, Hedwig Spiegel, whom she stated was forced to perform slave labour for the Nazis. The Claimant provided documents which contained Berthold Spiegel's signature.

Information Available in the Bank Records

The bank records demonstrate that the joint Account Owners were Berthold Spiegel and his wife, Hedwig Spiegel, née Leipziger, who lived at 12a Levetzowstrasse, Berlin, Germany. The bank records include an opening contract between the Account Owners and the bank in Basel dated 1 June 1928, which contains a signature sample for the Account Owner Berthold Spiegel. According to the opening contract, the Account consisted of a custody account. The bank records do not indicate if or when the Account was closed, or to whom (if anyone) it was paid. The auditors who carried out the investigation of this bank to identify victims of Nazi persecution pursuant to instructions of the Independent Committee of Eminent Persons did not find the 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, and its value was unknown.

The Tribunal's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her parents' names match the published names of the Account Owners. The Claimant has provided a street address for her parents which exactly matches the unpublished street address of the Account Owners which appears in the bank records. Also, the Claimant's mother's maiden name as contained in documentation attached to her claim exactly matches the name of the joint Account Owner. Finally, the signature of the Account Owner Berthold Spiegel contained in documentation provided by the Claimant matches that contained in the bank records.

Status of Account Owners as Victims of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owners were Victims of Nazi Persecution. She has shown that they were Jews who lived in Germany during the Third Reich, and that her father was deported by the Nazis and died in March 1943. The Claimant stated that her mother performed forced labor for the Nazis, and also perished in the Holocaust.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly shown that the Account Owners were her parents. The Claimant has provided her birth certificate, which records her parents' full names, and has provided a family tree which indicates that she is the only child of the Account Owners. The credibility of the information submitted by the Claimant gives the Tribunal no basis for doubting this information provided by the Claimant.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award of the account proceeds if they were in fact paid to the Account Owners or their heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families may have withdrawn and received the funds. In other cases, account owners who were subject to Nazi coercion sent to their banks requests for closure and transfer to banks designated by the Nazi authorities and the funds fell into Nazi hands. For other accounts, no transfers occurred, but the amount in the account was consumed by regular and special bank fees and charges resulting ultimately in closure without any payment to the account owners; and in still others, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, if the funds were not in fact paid to an account owner or his family, as is apparently the case here as described below, there is a substantial likelihood that they went to the Nazis or the Swiss bank.

Under the circumstances of this case, the Tribunal considers it reasonable to assume that the proceeds were paid to Nazi authorities.¹ The Account was presumed closed, but the date of closure and the identity of the person who closed the Account is unknown. There is no evidence before the Tribunal that the Account Owners themselves closed the Account and received the proceeds. Additionally, the Tribunal notes that Nazi legislation which came into force in December 1936 relating to custody accounts held abroad meant that the Account Owners would have been compelled (on penalty of death) to repatriate these assets through specific German clearing banks designated by the Nazi authorities. Subsequently, the Nazi Regime embarked on a policy of expropriating Jewish accounts, which culminated in 1939 in the wholesale systematic confiscation of Jewish assets held abroad. Moreover, in the period from 1939 onward travel by German Jews to Switzerland was restricted, making it unlikely that the Account Owners came to Switzerland to receive the proceeds after that time. In addition, the fact that both Account Owners perished in the Holocaust in 1943 makes it implausible that they were free to receive funds from the bank at any time in the period 1939-43.

Although the Tribunal cannot determine with certainty who received the proceeds of the Account Owners' Account, the Tribunal concludes that it is plausible that neither the Account Owners nor their heirs received the proceeds.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant for the following reasons: the Claim is admissible as the claimed Account belonged to Victims of Nazi Persecution, and the Claimant has provided information establishing that her parents are the Account Owners (a relationship that justifies making an Award).

¹ In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. After 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, www.crt-ii.org.

Amount of the Award

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, as determined based on the results of the investigation of Swiss banks by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules Governing the Claims Resolution Process ("Rules"), is used to calculate the present value of the account being awarded. In 1945, the average value of custody accounts was 13,000.00 Swiss Francs. The present value of this amount is calculated by multiplying by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

The Claimant should note that, according to Article 37(3) of the Rules, in cases where the amount in the account is not known, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to 65% of the total award amount. 35% of the total award amount for the Account is 52,325.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal 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

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an Award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same accounts will be forthcoming. Moreover, the new process of analyzing the Initial Questionnaires to determine those that can be treated as claim forms adds another element of uncertainty about the possibility of future complementary or competing claims.

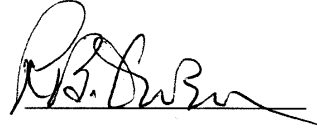
The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They have therefore instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a strong claim and that the risk of future competing claims is low, the Tribunal should prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a strong claim to the Account, thus substantially reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the

Tribunal recommends approval of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3) of the Rules.

Nov. 5, 2001

Date

A handwritten signature in black ink, appearing to read "R. B. Owen", written over a horizontal line.

Roberts B. Owen
Senior Claims Judge