

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
represented by [REDACTED 2]

in re Account of Hermann Spielmann and Siegfried Spielmann

Claim Number: 207925/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (formerly [REDACTED 1]) (the “Claimant”) to the account of Leon Fürstenheim.¹ This Award is to the published account of Hermann Spielmann (“Account Owner H. Spielmann”) and Siegfried Spielmann (“Account Owner S. Spielmann”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).²

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 Account Owner H. Spielmann as his father, Hermann Spielmann, who was born on 28 June 1893 in Munich, Germany, and was married to [REDACTED], née [REDACTED]. The Claimant indicated that his parents, who were Jewish, resided at several addresses in Munich, including Prinzregentenstrasse 17b, and that his father, an architectural engineer, owned a firm in Munich called *Elko*. The Claimant further indicated that he was born on 17 February 1925 in Munich.

The Claimant submitted an undated letter from his father containing additional information about his family. According to this letter, the Claimant’s father, Hermann Spielmann, served in the Alpen Corps of the German Army during the First World War. This letter further indicates that

¹ The CRT did not locate an account belonging to Leon Fürstenheim 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”).

² On the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Hermann Spielmann and Siegfried Spielmann are published as separate account owners. However, the Bank’s records indicate that they jointly held a single account.

Hermann Spielmann was arrested and imprisoned in Dachau from September 1935 to February 1936, freed, and then arrested again in June 1938 and imprisoned at Sachsenhausen. The Claimant stated that during the time his father was imprisoned, the Nazis contacted his relative [REDACTED], an art dealer living in Geneva, Switzerland, for money to secure his father's release.

According to the letter from Hermann Spielmann, he was released from Sachsenhausen after a few months in order to sell his business at a greatly discounted price. The letter further indicates that after selling the business, Hermann Spielmann fled to Buenos Aires, Argentina, where his brother lived by that time. According to the letter, Hermann Spielmann, who was forced to leave Germany alone, was later unable to secure passage for his wife and son to Argentina. The Claimant indicated that he was sent to England on a *Kindertransport* in June 1939. The Claimant further indicated that his mother was deported to a concentration camp in Riga, Latvia, where she perished in November 1941.

In a letter to the CRT, dated 17 September 2007, the Claimant identified Account Owner S. Spielmann as his father's elder brother, Siegfried Spielmann, who was born sometime before 1893 in Munich and resided there until 1935. The Claimant indicated that his uncle was a merchant businessman working for a time in import and export. According to the Claimant, his uncle emigrated to Buenos Aires in or around 1935, remaining there for many years after the War. The Claimant further indicated that his uncle was married and that he had a daughter named [REDACTED], but that he is unsure whether she or any other family members survives today.

In support of his claim, the Claimant submitted documents, including: 1) his own birth certificate, indicating that [REDACTED 1] was born on 17 February 1925 in Munich to Hermann Spielmann and [REDACTED], née [REDACTED], and that the family was Jewish; 2) his father's Argentine passport, indicating that Herman Spielmann was born on 28 June 1893 in Munich; 3) a letter from [REDACTED] in Munich to the Argentine general consul in Hamburg, Germany, dated in November 1938, requesting visas for herself and her son to join her husband Hermann Spielmann and her husband's brother Siegfried Spielmann in Argentina; 4) a letter from [REDACTED] in Munich to Hermann Spielmann in Buenos Aires, dated in July 1941, mentioning their son [REDACTED 1], and Hermann's brother Siegfried, and her efforts to obtain a visa to get out of Germany; 5) a certificate from a court in Munich, dated in 1948, declaring [REDACTED]'s date of death to be 30 November 1941, and indicating that her son is [REDACTED 1], formerly [REDACTED 1]; 6) the Claimant's marriage certificate, dated in England in 1958, indicating that the father of [REDACTED 1], formerly [REDACTED 1], was Hermann Spielmann; 7) an inheritance certificate relating to the Claimant's mother's estate, issued in Munich in 1963, declaring her heirs to be her husband Hermann Spielmann (who was born on 28 June 1893 in Munich and resided in Buenos Aires) and their son [REDACTED 1], formerly [REDACTED 1] (who was born on 17 February 1925 in Munich and resided in England); 8) a page of testimony for the Yad Vashem Memorial in Israel, dated in 1998, and signed by [REDACTED 1], formerly [REDACTED 1], indicating that his mother [REDACTED] perished in 1941 in Riga; and 9) the Claimant's application for restoration of German citizenship, dated in 1999, indicating that [REDACTED 1], formerly [REDACTED 1], was born

on 17 February 1925 in Munich, that he is Jewish, and that he was deprived of German citizenship on racial and religious grounds.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Leon Fürstenheim.³

Information Available in the Bank's Records

The Bank's records consist of a contract to open a joint account and printouts from the Bank's database. According to these records, the Account Owners were Hermann Spielmann, who resided at Prinzregentenstrasse 17b in Munich, Germany, and Siegfried Spielmann, who resided at Prinzregentenstrasse 15a in Munich. The Bank's records indicate that the Account Owners jointly held one account, the type of which is not indicated, which was opened on 26 September 1930. The Bank's records indicate that the account was closed, but do not show the date of closure, nor do these records indicate the value of the account.

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") 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 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 names and city of residence of the Claimant's father and uncle match the published names and city of residence of the Account Owners. The Claimant also identified the name of the street where the Account Owners resided and the exact street number for Account Owner H. Spielmann's residence, which matches unpublished information in the Bank's records.

In support of his claim, the Claimant submitted documents, including: his own birth certificate, his father's passport, letters from his mother, the Claimant's marriage certificate, and an inheritance certificate, providing independent verification that the people who are claimed to be the Account Owners had the same names and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owners.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different country of residence than the country of residence of the Account Owners and failed to identify both Account Owners.

³ See note 1 *supra*.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant indicated that the Spielmann family was Jewish, that Account Owner S. Spielmann resided in Germany until 1935, that Account Owner H. Spielmann was imprisoned by the Nazis and forced to sell his business before escaping to Argentina; that Account Owner H. Spielmann's son escaped to England on a *Kindertransport*, and that his wife perished in a concentration camp in Riga. Additionally, the Claimant submitted documents indicating the Account Owners' Jewish heritage and the family's fate during the Second World War. These documents include: the Claimant's own birth certificate, letters from his mother, a court certificate declaring his mother's death, a Yad Vashem page of testimony, and the Claimant's application for restoration of German citizenship.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents demonstrating that the Account Owners were the Claimant's father and uncle. These documents include the Claimant's birth certificate, letters from his mother, the Claimant's marriage certificate, and an inheritance certificate pertaining to his mother. There is no information to indicate that the Account Owners have surviving heirs.

The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed on an unspecified date. Given that Account Owner S. Spielmann resided in Nazi Germany until 1935, that Account Owner H. Spielmann was imprisoned in concentration camps during the years 1935-1938, and that he was twice released before fleeing to Argentina; that his wife and child remained in Germany until 1939 when his son escaped on a *Kindertransport* and 1941 when his wife was deported to Riga; 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 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. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner H. Spielmann was his father and Account Owner S. Spielmann was his uncle, and those relationships justify an Award. Third, the

CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of an 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.

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
18 December 2007