

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

in re Account of Olga Spitz

Claim Numbers: 202830/LV; 216367/LV

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published account of Olga Spitz (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 1] has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as her mother, Olga Spitz, née Kaunitz, who was born on 18 August 1887 and was married to [REDACTED] in Vienna, Austria, on 12 July 1911. Claimant [REDACTED 1] stated that she is the only child of Olga and [REDACTED] Spitz. Claimant [REDACTED 1] further stated that her father owned a business called *Spitz Manufactory* located on Servitengasse in Vienna IX, and that her mother may have been its co-owner. Claimant [REDACTED 1] stated that her family was Jewish, and that they resided at Hahngasse 20 in Vienna IX until 1939, when they fled to Yugoslavia. According to the information provided by Claimant [REDACTED 1], her mother was deported to a concentration camp in Belgrade, Yugoslavia, where she was murdered by the Nazis in 1942. Claimant [REDACTED 1] submitted her own birth certificate, identifying her parents as [REDACTED] and Olga Spitz and indicating that she was born in Vienna; and a confirmation from the Jewish Community in Vienna, indicating that [REDACTED] and Olga Spitz, née Kaunitz, were married on 12 July 1911, and that they were the parents of [REDACTED]. Claimant [REDACTED 1] indicated that she was born on 17 June 1912 in Vienna.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her mother.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as her maternal grandmother, Olga Spitz, née Fischmann, who was Jewish and was born on 20 August 1878 in Iglau, Czechoslovakia. Claimant [REDACTED 2] stated that her grandmother was married to [REDACTED] in Vienna, Austria, and that her grandmother was a housewife who resided at Billrothstrasse 20, Vienna XIX from 1927 until 1939. Claimant [REDACTED 2] indicated that her mother, [REDACTED], née [REDACTED], was born on 12 May 1900 in Vienna. Claimant [REDACTED 2] further indicated that she was the only grandchild of Olga Spitz. Claimant [REDACTED 2] further stated that her grandmother perished in either Theresienstadt or Auschwitz in 1942. Claimant [REDACTED 2] submitted her mother’s birth certificate, which identifies [REDACTED]’s parents as [REDACTED] and Olga Spitz, née Fischmann, and indicates that she was born on 5 December 1900 in Vienna; her mother’s certificate of residence, dated 25 November 1931, which indicates that [REDACTED], née [REDACTED], was born in 1900 and that she resided in Vienna; her grandfather’s birth certificate, indicating that [REDACTED] was born in 1872; and her mother’s passport, identifying [REDACTED]’s daughter as Hella Henrietta Pick, who was born on 24 April 1927. Claimant [REDACTED 2] indicated that she was born on 24 April 1927 in Vienna.

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Olga Spitz who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a demand deposit account that was opened in 1932 and closed on 31 May 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

Information Available from the Austrian State Archive

Claimant [REDACTED 1]

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Hermann Spitz, numbered 38257. The documents indicate that [REDACTED] was born on 13 April 1873, that he was married to Olga Spitz, née Kaunitz, that he was a businessman, and that he resided at Hahngasse 20, Vienna IX, Austria. According to these documents, [REDACTED] owned a business dealing in goods on commission, with assets worth 1,551.00 Reichsmark (“RM”) as of

27 April 1938. These documents also show that [REDACTED] later revised the value of his business to 1,000.00 Reichsmarks on 2 August 1939. The documents further show that [REDACTED] owned bonds, a life insurance policy worth RM 6,000.00, and other valuables worth RM 300.00. These records make no mention of assets held in a Swiss bank account.

Claimant [REDACTED 2]

With respect to Claimant [REDACTED 2]'s relative, in the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Olga Spitz, née Fischmann, numbered 21340. The documents indicate that Olga Spitz was born on 20 August 1878 in Iglau, Czechoslovakia, that she was a widow, and that she resided at Billrothstrasse 20, Vienna XIX, Austria. According to these documents, Olga Spitz owned bonds and savings accounts worth RM 12,284.00 and other valuables worth RM 80.00. These records make no mention of assets held in a Swiss bank account.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (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 two claims of the Claimants in one proceeding.

Identification of the Account Owner

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner contained in the Bank's record; that the information provided by each claimant supports and in no way contradicts information available in the Bank's record; and that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] each has plausibly identified the Account Owner.

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly identified the Account Owner. Claimant [REDACTED 1]'s mother's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 1] identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. In support of her claim, Claimant [REDACTED 1] submitted her own birth certificate, identifying her parents as [REDACTED] and Olga Spitz, and indicating that she was born in Vienna; and a certification from the Jewish Community in Vienna, acknowledging that [REDACTED] and Olga Spitz, née Kaunitz, were married on 12 July 1911, providing

independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city shown in the Bank's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Olga Spitz, and indicates that her date of birth was 18 August 1887 and place of residence was Vienna, Austria, all of which match the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 1] filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Olga Spitz, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP List"). This indicates that Claimant [REDACTED 1] 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 Claimant [REDACTED 1].

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly identified the Account Owner. Claimant [REDACTED 2]'s grandmother's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 2] identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's record. In support of her claim, Claimant [REDACTED 2] submitted her mother's birth certificate, which identifies [REDACTED]'s parents as [REDACTED] and Olga Spitz, née Fischmann, and indicates that she was born on 5 December 1900 in Vienna, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank's record as the name and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Olga Spitz, and indicates that her date of birth was 20 August 1878, that her place of birth was Iglau, Czechoslovakia, and that she resided in Vienna, Austria, all of which match the information about the Account Owner provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the country of residence of the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1]

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and that her mother was deported to a concentration camp in Belgrade, where she was murdered by the Nazis in 1942. As noted above, a person named Olga Spitz was included in the CRT's database of victims.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, and that her grandmother perished in either Theresienstadt or Auschwitz in 1942. As noted above, a person named Olga Spitz was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 1]'s mother. These documents include Claimant [REDACTED 1]'s birth certificate, identifying her parents as Hermann and Olga Spitz and indicating that she was born in Vienna; and a certification from the Jewish Community in Vienna, acknowledging that [REDACTED] and Olga Spitz, née Kaunitz, were married on 12 July 1911 and that they were the parents of [REDACTED 1].

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 2]'s grandmother. These documents include Claimant [REDACTED 2]'s mother's birth certificate, which identifies [REDACTED]'s parents as [REDACTED] and Olga Spitz, née Fischmann, and indicates that she was born on 5 December 1900 in Vienna; her mother's certificate of residence, dated 25 November 1931, which indicates that [REDACTED], née Spitz was born in 1900 and that she resided in Vienna; her grandfather's birth certificate, indicating that [REDACTED] was born in 1872; and her mother's passport, identifying [REDACTED]'s daughter as Hella Henrietta Pick, who was born on 24 April 1927.

There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner was either murdered by the Nazis in a concentration camp near Belgrade in 1942, as Claimant [REDACTED 1] indicated, or perished in either Theresienstadt or Auschwitz in 1942, as Claimant [REDACTED 2] indicated; that there is no record of payment of the Account Owner's account to the owner; that the Account Owner's heirs would not have been able to obtain information about the accounts 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 the applications of Presumptions (a)(ii), (h) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the proceeds of the accounts in this case 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was her mother, and Claimant [REDACTED 2] has also plausibly demonstrated that the Account Owner was grandmother, and those relationships justify 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 account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. 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 a demand deposit account was 2,140.00 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 26,750.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-

half of the total award amount, and Claimant [REDACTED 2] is entitled to one-half of the award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 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
28 September 2004