

Claimant indicated that her grandfather, who was Jewish, fled Austria to the United States in 1939 to escape Nazi persecution.

The Claimant explained that Alfred Spitzer re-married [REDACTED], née [REDACTED], in 1952 in St. Louis, Missouri. According to the Claimant, Alfred Spitzer died in 1959 in St. Louis; [REDACTED] died in 1969 in St. Louis; [REDACTED] died in 1982 in Vancouver, Canada; [REDACTED] died in 1999 in New York, New York; and [REDACTED] died without issue in 1976 in New York.

In support of her claim, the Claimant submitted her mother's death certificate and her own birth certificate issued on 14 February 1938 in Vienna by the Vienna Jewish Community. In addition, the Claimant submitted her grandfather's last will, in which he bequeathed one-fourth of his estate to his wife, [REDACTED]; one-fourth to [REDACTED] or her heirs; one-fourth to [REDACTED] or her heirs; and one-fourth to [REDACTED] or her heirs. The Claimant indicated that she was born on 15 January 1938 in Vienna. The Claimant is representing her brother, [REDACTED], who was born on 26 January 1935 in Vienna.

Information Available in the Bank's Records

The Bank's records consist of a deposit contract, signed by the Account Owner and dated 12 February 1926 in Vienna, Austria; a receipt dated 8 February 1926, also in Vienna; and a printout from the Bank's database. According to these records, the Account Owner was Alfred Spitzer who resided at Kirchengasse 18 in Vienna VII. The deposit contract indicates that the Account Owner deposited a savings passbook into a custody account, numbered 22530, which was opened for that purpose. In a handwritten notation, the Account Owner indicated that, in addition to himself, his wife, *Frau* (Mrs.) Elsa Spitzer, was to have full power of attorney to this account and requested the relevant forms for her to complete. The Bank's records do not show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves. 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. These auditors indicated that there was no evidence of activity on these account after 1945.

Information Available from the Austrian State Archives

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets (Archive of the Republic, Finance). In these records there are documents concerning the assets of Alfred Spitzer, numbered 38259. These documents indicate that Alfred Spitzer was born on 28 August 1870, that he was a widower, who lived in Vienna VII at Kirchengasse 18, and that he worked as a bookkeeper. According to the Austrian census documents, Alfred Spitzer owned real estate at

Kochgasse 7 in Vienna VIII valued at 45,080.00 Reichsmarks, foreign securities valued at 3,461.94 Reichsmarks, an insurance policy with *Oesterr. Versicherungs A.G.* valued at 1,090.00 Reichsmarks, as well as other assets, and that he was forced to pay a “Jewish Assets Tax” (*Judenvermögensabgabe*). The Austrian census records make no mention of assets deposited in Switzerland.

The CRT’s Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her grandfather’s name and city of residence match the published name and city of residence of the Account Owner. Moreover, the Claimant identified her grandfather’s address in Vienna, which matches the unpublished address contained in the Bank’s records and the information indicated in the records of the Austrian State Archives. The Claimant also identified that her grandfather was married to Elsa Spitzer, and this information matches the unpublished information about the Power of Attorney Holder and her relationship to the Account Owner, contained in the Bank’s records. The CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and fled from Austria to the United States to escape Nazi persecution.

The Claimant’s Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents, including Alfred Spitzer’s last will and her birth certificate, demonstrating that the Account Owner was her grandfather. As stated above, the Claimant was able to identify unpublished information about her grandfather contained in the Bank’s records, including his address and spouse’s name. The Claimant is representing her brother, [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled banks. Given that the CRT’s precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; that the Account Owner was persecuted by Nazis and was forced to flee Austria after his assets were subject to confiscatory taxes by the Nazi government, as stated in Austrian State Archive records; 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”), the CRT concludes that it is plausible that the account

proceeds were not paid to the Account Owner, 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. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held one savings 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 ICEP Investigation, in 1945 the average value of a savings account was 830.00 Swiss Francs. 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 10,375.00 Swiss Francs.

Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution, established in Article 23(1) to make allowance for any missing link in the chain, consistent with principles of fairness and equity. Pursuant to Article 23(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. In this case, the Claimant is representing her brother, [REDACTED], in these proceedings. Accordingly, the Claimant and her brother, [REDACTED], are each entitled to one-half 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
September 15, 2003