

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant Steven Anthony Heller
also acting on behalf of Charles William Heller

in re Accounts of Dr. Georg Spitzer

Claim Number: 215269/MG¹

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Steven Anthony Heller (the “Claimant”) to the unpublished accounts of Dr. Georg Spitzer (the “Account Owner”) at the Zurich branch of [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as his maternal uncle, Georg (Gyuri) Spitzer, who was born in 1899 in Sopron, Hungary, and was never married. The Claimant stated that his uncle was the son of Josef Spitzer and Helena Spitzer, née Wolf, the Claimant’s grandparents, and the brother of Elizabeth (Erzsi) Heller, née Spitzer, the Claimant’s mother, who was born in 1904 in Sopron and was married to Gedeon Heller, the Claimant’s father. The Claimant stated that his uncle, who was Jewish, held a Doctor of Laws degree and resided and worked at 35-41 Rakoczi Street in Sopron. The Claimant explained that Sopron is located on the Austrian border, close to Vienna, and that his uncle also worked in Vienna. The Claimant stated that his grandfather was a business advisor to prominent families, as well as a wine producer and merchant. The Claimant stated that his uncle owned a well-established and successful company named *Josef Spitzer & Son*, which was looted by the Nazis. The Claimant stated that his uncle fled Hungary in 1939, via Nice, France, where he boarded a ship to the United States. He died in New York, New York, on 21 August 1971. The Claimant stated that his grandparents and his parents also fled to the United States in 1939. The Claimant stated that his grandmother died in 1944, his grandfather died in 1945, and his mother died on 21 June 1971.

¹ The Claimant submitted additional claims to the accounts of Joseph Spitzer and Elizabeth Spitzer, which are registered under the Claim Numbers 215599 and 215282, respectively. The CRT will treat the claims to these accounts in separate decisions.

In support of his claim, the Claimant submitted a document, signed by his grandfather, Josef Spitzer, in New York on 22 October 1941, which details his family's history since 1895, the day he married Helene Wolf. According to this document, the Claimant's uncle earned his Doctorate of Laws in Budapest, and later lived in Vienna, before joining the firm *Schlesinger Trier & Co.* in Berlin, Germany. The document indicates that the Claimant's uncle then worked at the *Belgian Bank for Foreigners* in Paris, France, before returning to work in Vienna and Sopron. According to the grandfather's document, the Claimant's uncle and grandfather traveled from Vienna to Amsterdam, The Netherlands, where they founded a holding company named *Westertoren*. The document indicates that in December 1931 they traveled from Amsterdam to Geneva, Switzerland, where they made substantial deposits in a branch of *Credit Lyonnais*. According to the document, the Claimant's uncle and grandfather then traveled to Zurich, where they deposited 50,000 American gold coins ("American Eagles") in a safe deposit box at another bank in Zurich. The document further indicates that the Claimant's uncle and grandfather held securities at the Bank, and that they purchased 500,000 *National Defense SFR* bonds and *American Liberty Loans* with the American gold coins. The document also indicates that the Claimant's uncle created two family trusts in Basel, Switzerland: *Providentia* and *Lemania*, the latter of which was established for the Claimant's mother. In the document, the Claimant's grandfather identified his two grandchildren by their Hungarian names: Pista (Istvan), the Claimant; and Karoly, the Claimant's brother Charles.

The Claimant indicated that he was born on 1 September 1938 in Budapest, Hungary. The Claimant is representing Charles William Heller, his brother, who was born on 13 July 1936 in Budapest. The Claimant stated that he and his brother are his uncle's only heirs.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his grandfather Josef Spitzer and his mother Elizabeth Heller, née Spitzer, and provided information consistent with that contained in his Claim Form.

Information Available in the Bank's Records

The Bank's records consist of a printout from the Bank's database and a Power of Attorney form dated 23 December 1931 in Zurich, Switzerland, and signed by the Account Owner and the Power of Attorney Holder. According to these records, the Account Owner was Dr. Georg Spitzer, who had an address at the Imperial Hotel in Vienna I, Austria, and the Power of Attorney Holder was *Kommerzialrat* (a title that refers to a prominent businessman) Josef Spitzer, who also had an address in Vienna. The Bank's records indicate that the Account Owner held a demand deposit account and a custody account. 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.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to the 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 accounts after 1945. 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 CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His uncle's and grandfather's names match the unpublished names of the Account Owner and the Power of Attorney Holder. The Claimant identified his uncle's title, "Dr.," which matches unpublished information about the Account Owner contained in the Bank's records. The information provided by the Claimant about his grandfather's occupation as a businessman and business advisor is consistent with unpublished information about the Power of Attorney Holder's title contained in the Bank's records. The Claimant stated that his uncle and grandfather traveled on business to Vienna and that his uncle worked there, and this information is consistent with unpublished information about the Account Owner's and the Power of Attorney Holder's addresses contained in the Bank's records. Furthermore, the Claimant provided a family history written and signed by the Claimant's grandfather, which indicates that the Account Owner and the Power of Attorney Holder held securities at the Bank. This matches unpublished information about the account contained in the Bank's records. Finally, the Claimant submitted a sample of his grandfather's signature, which matches the signature sample of the Power of Attorney Holder contained in the Bank's records. The CRT notes that there are no other claims to these accounts.

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 that he fled Hungary to the United States in 1939.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting a family history document signed by his grandfather, which indicates that the Account Owner is his uncle.

The Issue of Who Received the Proceeds

Given that the Account Owner remained in Hungary until 1939, 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 that the proceeds of the account were paid to the Account Owner; given that the Account Owner and his heirs would not have been able to obtain information about his 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 inquires 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 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 his uncle, 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 demand deposit account and one custody 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 demand deposit account was 2,140.00 Swiss Francs and the average value of a custody account was 13,000.00 Swiss Francs. The current value of these amounts is calculated by multiplying them by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 189,250.00 Swiss Francs.

Division of the Award

The Claimant is representing his brother in these proceedings. According to Article 23 of the Rules, where the spouse of the Account Owner 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. Therefore, the Claimant and his brother are each entitled to receive one-half of the 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 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
July 15, 2003