

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of Max Sperber

Claim Numbers: 753002/MBC¹

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Leo Sperber and Max Sperber. This Award is to the published account of Max Sperber (the “Account Owner”), over which Leopold Sperber (the “Power of Attorney Holder”) held power of attorney, at the Biel 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 an ATAG Ernst & Young claim form identifying the Power of Attorney Holder as his father, Leo Sperber, who was Jewish and lived in Poland. The Claimant indicated that his father’s family was wealthy and owned a farm in Poland, and that his paternal

¹ Claimant [REDACTED] (the “Claimant”) did not submit a CRT Claim Form. However, in 1998, he submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-NYC-C-80-407-115-550, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 753002.

² The CRT notes that the names Max Sperber and Leopold Sperber were not published 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”). However, the CRT notes that the names were published on a 1998 list of 57 Polish account owners whose accounts were transferred from the Swiss Unclaimed Assets Fund and were paid to the Polish National Bank. The Unclaimed Assets Fund was established by the Swiss Government to identify dormant assets belonging to heirless non-Swiss citizens who were the victims of racial, religious, or political persecution. In addition, the names Max Sperber and Leopold Sperber were published on the 2005 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the “2005 List”).

grandfather may have owned a Swiss bank account. The Claimant further indicated that his paternal relatives were never heard from after the Second World War.

In telephone conversations with the CRT in 2005 and on 11 May 2006, the Claimant identified the Account Owner as his paternal grandfather, Max Sperber. The Claimant indicated that his grandfather was a farmer near the Carpathian Mountains in Poland. The Claimant further stated that his father Leo Sperber (also known as Louis) was born in Poland on 29 March 1903 and that he emigrated to the United States in approximately 1921, at the age of eighteen. Finally, the Claimant stated that his father's parents and siblings remained in Poland and that they are presumed to have perished in the Holocaust.

In support of his claim, the Claimant submitted his father's Certificate of Naturalization as a United States citizen, dated 26 June 1934, indicating that Leo Sperber was thirty-one years old, that he was Jewish, that he was married, and that he was born in Poland. The Claimant indicated that he was born on 16 March 1936 in the United States.

Information Available in the Bank's Records

The CRT notes that 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 report an account belonging to Max Sperber during their investigation of the Bank. The existence of an account at the Bank is evidenced by documents from the Press Office of the Polish Ministry of Finance and the Swiss Federal Archive in Bern, Switzerland, which are further described below.

Information Published by the Press Office of the Polish Ministry of Finance

In the publication entitled *Nasze finanse*, published by the Press Office of the Polish Ministry of Finance in 1998, there is information concerning the assets of Max Sperber. According to this record, the Account Owner was Max Sperber, who resided at Number 2, skrzyznka poptowa 46 (Stanislawa-Gasse) in Lvov, Poland (also known as Lebork or Lemberg), and the Power of Attorney Holder was Leopold Sperber, whose city and country of residence is not specified.

This record indicates that the Account Owner held a demand deposit account. This record further indicates that the last contact between the Bank and the Account Owner occurred on 24 February 1938, when the Account Owner withdrew 500.00 Swiss Francs ("SF"). The record further indicates that the account held a balance of SF 23.50 as of 6 December 1963. Finally, this record indicates that the amount remaining in the account was transferred on 15 August 1975 to the Polish National Bank.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss-based assets whose

last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the “1962 Survey”).

In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the registration of assets belonging to Max Sperber, numbered 818. These records contain the same information about the Account Owner published in *Nasze finanse*, described in the previous section. Furthermore, these records state that the city and country of residence of the Power of Attorney Holder was unknown.

In addition, these records indicate that the demand deposit account appeared to have been opened in 1936, and that it held a balance of SF 564.75 as of 4 February 1938. The records indicate that the withdrawal of SF 500.00 on 24 February 1938 was in cash, and that the subsequent balance of SF 64.75 was reduced by fees between 1938 and 1963 to the reported balance of SF 23.50.

The records indicate that the account was suspended by the Bank on 3 July 1945, and that the last contact the Bank had with the Account Owner was in 1938. The documents indicate that the account was reported as a “doubtful case” (*Zweifelsfall*) by the Bank in the course of the 1962 Survey. The records from the Swiss Federal Archive do not refer to the ultimate disposition of the assets.

The CRT’s Analysis

Identification of the Account Owner

The Claimant’s grandfather’s name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the Carpathian Mountains are approximately eighty (80) kilometers distant from the Account Owner’s city of residence, but that it is plausible that the Claimant does not know his paternal relatives’ exact city of residence, particularly because his father emigrated to the United States in 1921 and as his father’s family members remained in Poland until they perished in the Holocaust. Furthermore, the Claimant’s father’s name matches the published name of the Power of Attorney Holder.³ The CRT notes that the records of the account do not contain any specific information about the Power of Attorney Holder other than his name.

In support of his claim, the Claimant submitted documents, including his father’s Certificate of Naturalization, providing independent verification that the person who is claimed to be the Power of Attorney Holder had the same name recorded in the records of the account as the name of the Power of Attorney Holder and that he had the same surname and country of origin as the surname and country of residence of the Account Owner.

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 Owner

³ The CRT notes that Leo is a diminutive form of Leopold.

and/or failed to identify the Power of Attorney Holder. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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, that he and his family lived in Poland, that they were not heard from after the War, and that they presumably perished in the Holocaust. The Claimant also submitted his father's Certificate of Naturalization, indicating that the Power of Attorney Holder, whom it is plausible was the Account Owner's son, was Jewish and that he was originally from Poland.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's paternal grandfather and that the Power of Attorney Holder was the Claimant's father. The CRT further notes that the Claimant submitted the Power of Attorney Holder's Certificate of Naturalization, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Poland. The CRT notes that it is plausible that this document is a document which most likely only a family member would possess. Finally, the CRT notes that the information submitted by the Claimant is of the type that family members would possess and indicates that the Account Owner and the Power of Attorney Holder were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his claim. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

The records of the Press Office of the Polish Ministry of Finance indicate that the account was paid to the Polish National Bank on 15 August 1975.

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 Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was his grandfather, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor the Power of Attorney Holder, nor their heirs, received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one demand deposit account. The records of the Swiss Federal Archive indicate that the value of the demand deposit account as of 24 February 1938, the date of the last contact between the Bank and the Account Owner, was SF 64.75. According

to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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.

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
12 October 2007