

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation

Case No. CV96-4849

Certified Award

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

to Claimant [REDACTED 2]

and

to Claimant [REDACTED 3]

in re Accounts of Rachel Sperling and Julius Sperling

Claim Numbers: 212637/MBC, 212638/MBC, 220031/MBC, 220648/MBC

Award Amount: 124,344.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), [REDACTED 2], formerly known as [REDACTED 2] (“Claimant [REDACTED 2]”), and [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the accounts of Rachel and Julius Sperling (the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 3] has done in this case, the names of the claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1] submitted two Claim Forms identifying the Account Owners as her maternal uncle, Julius Sperling, and his wife, Rachel Sperling, née [REDACTED]. Claimant [REDACTED 1] stated that her uncle, who was Jewish, was born in approximately 1885 in Piatra-Neamt, Romania, and lived at Strada Domneasa 120 in Galat, Romania until 1929. He then moved to 3 Boulevard Emile Angier in Paris XVI, France, where he lived until 1934, at which time he moved to Strada Pietatei 30 in Bucharest, Romania. Claimant [REDACTED 1] further stated that her uncle traded in wood, and that he died in Bucharest in approximately 1940. Claimant [REDACTED 1] indicated that Rachel Sperling, who was Jewish, died in Bucharest. In support of her claim, Claimant [REDACTED 1] submitted a photograph of Julius and Rachel

Sperling and Julius' siblings. Claimant [REDACTED 1] stated that she was born on 14 May 1913 in Galatz, Romania, and that her daughter, [REDACTED], is representing her.

Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted Claim Forms identifying the Account Owners as their great-uncle (their paternal grandmother's brother), Julius Sperling, and his wife, Rachel Sperling, née [REDACTED], who were Jewish. According to Claimants [REDACTED 2] and [REDACTED 3], Julius Sperling was born in Romania on 8 October 1880, and Rachel Sperling, née [REDACTED], was born in Romania on 24 December 1894. Claimants [REDACTED 2] and [REDACTED 3] stated that Julius Sperling resided at Strada Matasari 9 in Bucharest, was a merchant who owned a store in Bucharest, and had business connections in Paris and Berlin. In support of their claims, Claimants [REDACTED 2] and [REDACTED 3] submitted Julius and Rachel Sperling's death certificates, indicating that Julius Sperling died in Bucharest in 1941, and Rachel Sperling died in Bucharest in 1981. Claimant [REDACTED 2] stated that he was born on 2 December May 1943 in Bucharest. Claimant [REDACTED 3] stated that she was born on 13 April 1951 in Bucharest.

The Claimants stated that they are descendants of the siblings of Julius Sperling. Claimant [REDACTED 1] is the daughter of Julius Sperling's sister, [REDACTED]; and Claimants [REDACTED 2] and [REDACTED 3] are the children of [REDACTED], who is the son of Julius Sperling's sister, [REDACTED]. The Claimants stated that Julius and Rachel Sperling had no children. Claimant [REDACTED 1] further stated that there are no living family members from Rachel Sperling's side of the family.

Information Available in the Bank Records

The bank records consist of two account cards and extracts from suspense account ledgers. According to these records, the Account Owner of one account of unknown type, numbered 5978, was *Frau* (Mrs.) Rachel Sperling, and the Power of Attorney Holder to this account was Julius Sperling, both from Romania. The bank records do not indicate the account balance or when the account was opened. 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") concluded that the account had been dormant for at least ten years from 1945 onward. The bank records do not show if or when this account was closed, or to whom it was paid. The auditors did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

The bank records also indicate that the Account Owners held a joint account of unknown type, which was numbered 704735. This joint account was transferred to a suspense account in or before 1965. The bank records show that the account was closed on 15 February 1967, unknown by whom. The auditors found evidence that the account had been dormant for at least ten years after 1945. The bank records show that the balance of this account was 5,112.00 Swiss Francs on 31 December 1964, 5,067.55 Swiss Francs on 31 December 1965 and 5,023.55 Swiss Francs in 1967. The bank records do not indicate why fees continued to be deducted from this account, which had been suspended. The bank records also indicate that the Bank was instructed to hold all correspondence to the Account Owners.

There is no evidence in the bank 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

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 discretion of the Claims Judges. In this case, the CRT determines it appropriate to join the four claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Their relatives' names and country of residence match the published names and country of residence of the Account Owners. The CRT notes that despite the fact that the Account Owners were listed separately on the list of bank accounts published by the ICEP Investigation on 5 February 2001, the Claimants stated that the Account Owners were related, which matches unpublished information contained in the bank records. In support of their claims, Claimant [REDACTED 2] and Claimant [REDACTED 3] submitted the death certificates of their great-uncle and great-aunt. The CRT notes that the two other claims to these accounts were disconfirmed because Sperling was the maiden name of the claimed account owners, while the bank records indicate that Sperling was Account Owner Rachel Sperling's married name.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and lived in Romania during the Nazi-occupation. The CRT notes that the Nazis invaded Romania on October 7, 1940. The Claimant stated that Julius Sperling died in 1941 in Romania, and that Rachel Sperling lived through the Second World War in Romania, where she died in 1981.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting documents, demonstrating that Julius Sperling was married to Rachel Sperling and that they are descendants of the parents of Julius Sperling. The Claimants indicated that there are no living heirs from Account Owner Rachel Sperling's side of the family.

The Issue of Who Received the Proceeds

With regard to the account owned by Rachel Sperling, given the persecution of Jews in Romania and the confiscation of Jewish assets during the Second World War, the Communist dictatorial regime after the War, and the application of Presumptions (f), (h), (i) and (j), as provided in Article 28 of 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. With

regard to the account jointly owned by Julius and Rachel Sperling, given the persecution of Jews in Romania and the confiscation of Jewish assets during the Second World War, the Communist dictatorial regime after the War, and the application of Presumptions (b), (h), (i) and (j) as provided in Article 28 of the Rules, 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.

Additionally, for Account Owners who were citizens of Romania, it is possible that the proceeds of their Swiss accounts were paid by Switzerland to Romania, as part of an arrangement between the two countries concluded in 1951. Swiss banks froze Romanian assets in 1948 pursuant to a Decree of the Swiss Federal Council. Romanian accounts were unfrozen in October 1950 and approximately one year later, in August 1951, Switzerland and Romania entered into an arrangement whereby unclaimed assets held by Romanian citizens in Swiss banks were to be transferred to the Romanian Government in return for compensation for Swiss property that had been nationalized by Romania's communist regime. Dormant accounts were subject to transfer to the Romanian Government under this arrangement. Where, as here, the CRT has concluded that there is a substantial likelihood that the Swiss Government, which is a Releasee under the Settlement of the Holocaust Victim Assets Litigation, seized an account to use it to obtain compensation for Swiss citizens, and the CRT has determined accordingly that neither the Account Owner nor his or her heirs received the proceeds of the account, it is fully consistent with the Settlement to pay the Claimant the proceeds of the account.

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, the Claimants have plausibly demonstrated that the Account Owners were their relatives, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owners held two accounts of unknown type. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case with the account owned by Rachel Sperling, the average value of the same or a similar type of account in 1945 is used to calculate the present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs for this account.

With regard to the account owned jointly by Julius and Rachel Sperling, the bank records indicate that the value of the joint account as of 31 December 1964 was 5,112.00 Swiss Francs. In accordance with Article 31(1) of Rules, this amount is increased by an adjustment of 1,300.00 Swiss Francs, which reflects numbered account fees, hold mail fees, and standardized bank fees charged to the account between 1945 and 1964. The bank records indicate that there was no interest paid to this account from the time it was frozen in 1945. Consequently, the adjusted

balance of the joint account as of 1945 is 6,412.00 Swiss Francs. The present value of this amount is determined by multiplying the adjusted balance by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 76,944.00 Swiss Francs for the joint account. Thus, the total award amount for both accounts is 124,344.00 Swiss Francs.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. As descendants of Account Owner Julius Sperling's parents, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] and Claimant [REDACTED 3] are each entitled to one-quarter 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

May 15, 2003