

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2]

in re Accounts of Maurice Spira and Berthe Spira

Claim Numbers: 215994/SJ, 216023/SJ¹

Award Amount: 628,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Maurice Spira (“Account Owner Maurice Spira”) and the published accounts of Berthe Spira (“Account Owner Berthe Spira”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (“Bank I”), the [REDACTED] (“Bank II”), and the [REDACTED] (“Bank III”) (together the “Banks”).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 a Claim Form identifying Account Owner Maurice Spira as his father, Maurice Spira, who was born on 11 February 1893 in Ranspach, France, and was married to his first wife, [REDACTED], née [REDACTED], on 27 June 1930 in Colmar, France. The Claimant further stated that his father’s first wife died in 1931 in Mulhouse, France, and that his father, who was Jewish, then married the Claimant’s mother, [REDACTED], née [REDACTED], on 28 December 1933 in Erstein, France. The Claimant stated that the couple had two children: the Claimant and his sister, [REDACTED 2], née [REDACTED]. According to the Claimant, his father was a cattle merchant who also worked as a butcher in Mulhouse after the Second World War. The Claimant asserted that his father lived on rue Chalampé in Mulhouse from 1933 until 1939, when he moved to Nantes, France, and then to Gelosse, France, where he remained in hiding. According to the Claimant, his father returned to Nantes in 1944 and later died in Mulhouse on 16 August 1970.

¹ The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 215728. The CRT will treat the claim to this account in a separate decision.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Berthe Spira is indicated as having two accounts. Upon careful review, the CRT has concluded that Bank I’s records evidence the existence of seven accounts.

The Claimant submitted a Claim Form identifying Account Owner Berthe Spira as his paternal grandmother, Berthe Spira, née Dreyfus, who was born on 23 February 1865 in Altkirch, France, and was married to [REDACTED]. The Claimant stated that his grandparents had five children: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and the Claimant's father, Maurice. According to the Claimant, [REDACTED] died as an infant in 1890, [REDACTED] died in Mulhouse in 1934, and both [REDACTED] and [REDACTED] perished in Auschwitz. The Claimant further stated that his grandfather died in approximately 1929. The Claimant stated that his grandmother, who was Jewish, lived at rue de Bâle 14 in Mulhouse until 1939, when she moved to Nantes, and was later deported to and perished in Auschwitz on 15 February 1944.

In support of his claim, the Claimant submitted documents, including the birth certificate of the Claimant's father, indicating that he was born in Ranspach and that he is the son of [REDACTED] and Berthe Spira, née Dreyfuss; the French identity card of the Claimant's father, Maurice Spira, including his signature; the marriage certificate of the Claimant's parents, Maurice and [REDACTED] Spira, indicating Maurice Spira's address as rue de Bâle 14 and further indicating Maurice Spira's parents as [REDACTED] and Berthe Spira, née Dreyfuss, and including the signatures of Maurice Spira and his mother, who signed her name *Mme (Mrs.) Vve* (widow) F. Spira; a certificate of inheritance from the Claimant's mother, indicating the Claimant and his sister as her heirs; the marriage certificate of his sister, indicating that she is the daughter of Maurice and [REDACTED] Spira; the Claimant's marriage certificate, indicating he is the son of Maurice and [REDACTED] Spira; and the passports of both the Claimant and his sister, [REDACTED 2], née [REDACTED]. The Claimant indicated that he was born on 23 May 1946 in Nantes. The Claimant is representing his sister, [REDACTED 2], née [REDACTED], who was born on 20 March 1935 in Mulhouse.

Information Available in the Bank's Records

Bank I's records consist of power of attorney forms signed by the Account Owners; documents requesting that correspondence be held; a death certificate for [REDACTED] dated 29 September 1928 in Mulhouse, France; a protocol dated 11 March 1952 in Basel, indicating that a safe deposit box was forcibly opened; an account opening contract; and printouts from Bank I's database. Furthermore, pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). On 7 September 2004 the Bank provided the CRT with additional documents. These documents consist of an account opening card referencing account 1110, a notarized declaration and a certificate of property issued after the death of [REDACTED].

Account Owner Maurice Spira

Bank I's records show that Account Owner Maurice Spira was Maurice Spira, who resided at Eichwaldstrasse 9 and rue Chalampé 9 in Mulhouse, and who held a custody account numbered 41237. These records indicate that Account Owner Maurice Spira granted a power of attorney over this account to *Madame (Mrs.) Veuve* (widow) [REDACTED] on 25 September 1936.

Bank I's records do not show when the account was closed, to whom it was paid, or the value of the account.

The auditors who carried out the investigation of Bank I 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 that account in Bank I's system of open accounts, and they therefore presumed that it was closed. There is no evidence in Bank I's records that Account Owner Maurice Spira, his heirs, or the Power of Attorney Holder closed the account and received the proceeds themselves. These auditors indicated that there was no evidence of activity on this account after 1945.

Account Owner Berthe Spira

Bank I's records indicate that Account Owner Berthe Spira was *Frau* (Mrs.) Berthe Spira, née Dreyfus, wife of [REDACTED], who lived at rue de Bâle 14, Mulhouse, in 1934, and at rue de Bâle 46, Mulhouse, in 1935. These records indicate that Account Owner Berthe Spira held seven accounts: two custody accounts, numbered 6809 and 41236, respectively; a demand deposit account that was linked to custody account number 6809; a savings/passbook account numbered 1110; a safe deposit box numbered 59; and two accounts of unknown type, one each held at Bank II and Bank III.

According to Bank I's records, [REDACTED], who lived in Ranspach, France, opened the custody account numbered 6809, and the demand deposit account that was linked to it, on 3 February 1914, and granted a power of attorney to his wife, Berthe Spira. Bank I's records indicate that [REDACTED], a livestock trader, died on 16 April 1928. According to these records, Berthe Spira subsequently became the owner of the accounts and thereafter granted powers of attorney over these accounts to her daughters, [REDACTED] and [REDACTED] on, 26 February 1932 and to Account Owner Maurice Spira on two occasions: 11 December 1934 and 11 November 1935. The powers of attorney granted to [REDACTED] and [REDACTED] were voided on 11 September 1934. Bank I's records do not show when these accounts were closed, or to whom they were paid, nor do these records indicate the value of these accounts. There is no evidence in Bank I's records that Account Owner Berthe Spira, her heirs, or Account Owner Maurice Spira closed the two accounts registered under number 6809 and received the proceeds themselves.

Additionally, Bank I's records indicate that Account Owner Berthe Spira granted a power of attorney over custody account numbered 41236 to Account Owner Maurice Spira on 25 February 1936. Bank I's records do not show when this account was closed, or to whom it was paid, nor do these records indicate the value of this account. There is no evidence in Bank I's records that Account Owner Berthe Spira, her heirs, or Account Owner Maurice Spira closed the account registered under number 41236 and received the proceeds themselves.

Furthermore, Bank I's records indicate that Account Owner Berthe Spira granted a power of attorney over her savings/passbook account numbered 1110 to Account Owner Maurice Spira, but do not indicate the date this power was granted. Bank I's records further indicate that the

savings/passbook account numbered 1110 was closed during the 1930s on 25 September.³ The amount in the account on the date of its closure is unknown.

The auditors who carried out the ICEP Investigation at Bank I did not find the custody accounts numbered 6809 or 41236, or the demand deposit account numbered 6809, in Bank I'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.

With regard to safe deposit box numbered 59, Bank I's records indicate that because the rental fee had remained unpaid since 31 January 1940, Bank I forcibly opened the safe deposit box on 11 March 1952. Bank I's records also note that upon opening safe deposit box numbered 59, Bank I found account receipts and bank correspondence from 1924 - 1939, corresponding to accounts held at Bank I, Bank II, and Bank III, all of which were then destroyed by Bank I. Based upon the protocol drafted by Bank I after the forced opening the safe deposit box, which indicates that accounts were held at Bank I, Bank II, and Bank III but contains no further information about such accounts, the CRT deems it plausible that Account Owner Berthe Spira held, in addition to the accounts described above, one account of unknown type at Bank II, and one account of unknown type at Bank III. The auditors who carried out the ICEP Investigation did not report any accounts held by Account Owner Berthe Spira at Bank II or Bank III.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules (see Appendix A), 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 Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's father's and grandmother's names match the published names of the Account Owners, as well as the name of the Power of Attorney Holder to Account Owner Berthe Spira's accounts. The Claimant identified his relatives' street addresses, his grandfather's name and city of residence, the relationship between the Account Owners and the power of attorney holders, and the names of his aunts, all of which match unpublished information about the Account Owners contained in Bank I's records. The Claimant also indicated that his grandfather died in approximately 1929, which is consistent with the date of death of [REDACTED] contained in the Bank's records. The Claimant further stated that his relatives lived in Mulhouse until 1939, which corresponds to the last year for which Bank I found records of account activity and correspondence in the safe deposit box it forcibly opened. In support of his claims, the Claimant submitted documents, including the birth certificate of the Claimant's father, indicating that he is the son of [REDACTED] and Berthe Spira, née Dreyfuss; the French identity card of the Claimant's father,

³ The CRT notes that the exact date of closure is not available. The Bank's record indicates only that account 1110 was closed on "25/9 193".

Maurice Spira, including his signature; and the marriage certificate of the Claimant's parents, Maurice and [REDACTED] Spira, indicating Maurice Spira's address as rue de Bâle 14 and further indicating Maurice Spira's parents as [REDACTED] and Berthe Spira, née Dreyfuss, and including the signatures of Maurice Spira and his mother, who signed her name *Mme* (Mrs.) *Vve* (widow) F. Spira. These documents provide independent verification that the persons who are claimed to be the Account Owners had the same names and addresses as those recorded in Bank I's records as the names and addresses of the Account Owners. As indicated, the Claimant submitted samples of his father's and grandmother's signatures and these signatures match the signature samples contained in Bank I's records.

Additionally, the CRT notes that a database containing the names of Victims of Nazi Persecution includes a person named Berthe Spira, and indicates that her date of birth was 23 March 1865 and place of birth was Dekkirch, France, which is substantially similar to the information about Account Owner Berthe Spira provided by the Claimant.⁴ The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Furthermore, the CRT notes that the names Berthe Spira and Maurice Spira each appear only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Finally, the CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that Account Owner Maurice Spira was in hiding in Gelosse, France during the Second World War and that Account Owner Berthe Spira perished in Auschwitz. As noted above, a person named Berthe Spira was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's father and grandmother. These documents include the birth certificate of the Claimant's father, indicating that he is the son of [REDACTED] and Berthe Spira, née Dreyfuss, as well as the Claimant's marriage certificate, indicating he is the son of Maurice and [REDACTED] Spira. There is no information to indicate that the Account Owners have other surviving heirs other than the Claimant's sister, whom he is representing.

The Issue of Who Received the Proceeds

Account Owner Maurice Spira:

Given that there is no record of the payment of Account Owner Maurice Spira's account to him, nor any record of a date of closure of the account; that Account Owner Maurice Spira and his

⁴ The CRT notes that its research revealed no location by the name of "Dekkirch" in France or elsewhere. As a result, the CRT has determined that it is plausible that the location "Dekkirch, France" was intended to read "Altkirch, France."

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 inquiries 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.

Account Owner Berthe Spira:

With regard to safe deposit box numbered 59 at Bank I, the CRT notes that Bank I's records indicate that the account was forcibly opened by Bank I in 1952 and that Bank I destroyed its contents.

With regard to the two custody accounts at Bank I, the demand deposit account at Bank I, and the two accounts of unknown type, one each at Bank II and Bank III, given that there is no record of the payment of these accounts of Account Owner Berthe Spira's to her, nor any record of a date of closure of these accounts; that Account Owner Berthe Spira and her heirs would not have been able to obtain information about her 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 inquiries 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 Owners, the Power of Attorney Holders, 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.

With regard to the savings/passbook account at Bank I, numbered 1110, which was closed during that 1930s, the CRT concludes that since this account was closed before the Nazi invasion of France, that Account Owner Berthe Spira was able to close this account herself, and received the proceeds of this account.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his father and grandmother, and those relationships justify an Award. Third, the CRT has determined that with respect to the safe deposit box held by Account Owner Berthe Spira at Bank I, that neither Account Owner Berthe Spira nor her heirs received the proceeds of this account, and that with respect to all the remaining accounts except the savings/passbook account at Bank I, numbered 1110, that it is plausible that neither the Account Owners, the power of attorney holders, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

Account Owner Maurice Spira:

In this case, Account Owner Maurice Spira held 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 custody account was 13,000.00 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 an award amount of SF 162,500.00.

Account Owner Berthe Spira:

In this case, Account Owner Berthe Spira held two custody accounts, one safe deposit box, one demand deposit account, and two accounts of unknown type. 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 custody account was SF 13,000.00, the average value of a safe deposit box was SF 1,240.00, the average value of a demand deposit account was SF 2,140.00, and the average value of an account of unknown type was SF 3,950.00. Thus the total 1945 average value of the six accounts at issue is SF 37,280.00. The current value of the award is calculated by multiplying this amount by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 466,000.00.

Consequently, the total award amount is SF 628,500.00.

Division of the Award

According 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 his sister, Liliane Julie Nerson. Accordingly, both the Claimant and his sister 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 his claims 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
13 October 2004