

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 Albert Israel, Ernst Israel, Isak Israel, Moritz Israel, and Emma Wolf

Claim Numbers: 224152/WM; 224153/WM; 224154/WM; 400250/WM

Award Amount: 903,125.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the “Claimant”) to the accounts of Isak Israel, Moritz Israel, and Ernst Israel.¹ This Award is to the published accounts of Moritz Israel (“Account Owner Moritz Israel”), Ernst Israel (“Account Owner Ernst Israel”), and Isak Israel (“Account Owner Isak Israel”) at the [REDACTED] (“Bank I”),² and to the published account of Account Owner Isak Israel, Account Owner Moritz Israel, Albert Israel (“Account Owner Albert Israel”) and Emma Wolf, née Israel (“Account Owner Wolf”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank II”) (together the “Banks”).³

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 owners, and the banks have been redacted.

Information Provided by the Claimant

The Claimant submitted three Claim Forms in 2001 and a Claim Form in 2005 identifying Account Owner Isak Israel as his paternal grandfather, Isak Israel; Account Owners Moritz Israel and Albert Israel and Account Owner Wolf as his grandfather’s siblings, Moritz Israel, Albert

¹ In these claims, the Claimant also claimed the accounts of Hermann Wolf and *Wolf & Comp.* The CRT will treat the claims to these accounts in separate determinations.

² The CRT notes that Isak Israel is indicated as an account owner on the 2005 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 “2005 List”).

³ The CRT notes that, 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”), Emma Wolf and Moriz Isak Israel are indicated as having one account each. Upon careful review and upon receiving additional documents from Bank II, the CRT has concluded that these entries refer to one and the same account, which was in fact jointly held by four individuals: Moritz (Moriz) Israel, Isak Israel, Albert Israel, and Emma Wolf, née Israel.

Israel, and Emma Wolf, née Israel, respectively; and Account Owner Ernst Israel as his father's paternal cousin, Ernst Israel.

The Claimant stated that his grandfather's parents, [REDACTED] and [REDACTED], née [REDACTED], resided in Heilbronn, Germany, together with their eleven children, including Isak Israel (the Claimant's grandfather), who was born on 19 January 1863 in Ernsbach, Germany, and was married to [REDACTED], née [REDACTED], in 1892 in Heilbronn; Moritz Israel, who was born in 1878 or 1879 in Heilbronn, and was married to [REDACTED], née [REDACTED]; Albert Israel, who was married to [REDACTED]; and Emma Wolf, née Israel. The Claimant indicated that his relatives were Jewish.

According to the Claimant, his grandfather, together with his brothers Moritz and Albert and Albert's son Ernst Israel, co-owned and operated the family's shoe business, *Mechanische Schuhfabrik Wolf & Comp.* or "Wolko," in Heilbronn, which was originally founded by the Claimant's paternal great-grandfather, [REDACTED]. The Claimant indicated that his grandfather had four children, [REDACTED], [REDACTED], née [REDACTED], S [REDACTED], and [REDACTED] (the Claimant's father); Moritz Israel had two children, [REDACTED] and [REDACTED], née [REDACTED]; Albert Israel had two children, [REDACTED], née [REDACTED], and [REDACTED]; and Emma Wolf, née Israel, had two children, [REDACTED] and [REDACTED], née [REDACTED].

According to the Claimant, the Nazis seized the family business in 1933, and his grandfather died shortly thereafter, on 20 October 1933 in Heilbronn. The Claimant stated that his grandfather's elder son, [REDACTED], resided in Switzerland, and assisted family members in their efforts to escape Germany. The Claimant explained that his grandfather's brother Moritz moved to Berlin, Germany in 1934, and fled Germany to the United States via Zurich, Switzerland, in 1937 or 1938.

The Claimant stated that Albert Israel was deported to a concentration camp, where he perished, and that his son, Ernst Israel, fled from Germany to Brussels, Belgium, in July 1936, and later traveled to London, England. According to the Claimant, the Nazis stripped Ernst Israel of his German citizenship in 1939. The Claimant further stated that on 14 February 1941, Ernst Israel emigrated to New York via Cuba and Santo Domingo, the Dominican Republic.

The Claimant indicated that Emma Wolf, née Israel, died in 1956 in New York, New York, the United States, that died Moritz Israel died in New York in 1958, and that Ernst Israel died in New York in 1965. The Claimant stated that his great-aunt's daughter, [REDACTED], née [REDACTED], died in 1966 and that her son, [REDACTED], died in 1984 in New York.

In support of his claim, the Claimant submitted documents, including: (1) the Claimant's birth certificate, indicating that [REDACTED 1] was born on 24 March 1937 in London and that his father was [REDACTED]; (2) the Claimant's father's birth certificate, dated 28 September 1926, indicating that [REDACTED] was born to Isak Israel on 7 October 1905 in Sontheim, Germany; (3) a brief history of *Mechanische Schuhfabrik Wolf & Comp.*, which includes the company letterhead, indicating that it was located in Heilbronn, that Isak Israel and Moritz Israel managed the business, and that it was seized by the Nazis; (4) an affidavit, signed and executed by Jerry

G. H. Lessner, Ernst Israel's cousin, dated 28 November 1986, indicating that Isaac Israel, Morris Israel, Albert Israel and Emma Wolff were siblings, that Ernest Israel was Albert Israel's son, and that Albert Israel perished in a concentration camp; and (5) a brief family history written by the Claimant's paternal aunt, [REDACTED], née [REDACTED], dated 16 June 1987, indicating that the Claimant's family resided in Heilbronn. The Claimant indicated that he was born in London on 24 March 1937. The Claimant is representing his cousin, [REDACTED 2], who is the daughter of [REDACTED], née [REDACTED].

Information Available in the Banks' Records

Bank I

Account Owner Isak Israel

With respect to Account Owner Isak Israel, Bank I's record consists of a customer card. According to this record, Account Owner Isak Israel was Isak Israel, who resided in Heilbronn, Germany. Bank I's record indicates that Account Owner Isak Israel held a demand deposit account, which was opened on 22 February 1930 and closed on 26 February 1934, and a custody account, numbered L1908, which was opened on 7 February 1933 and closed on 5 February 1934. The amounts in the accounts on the dates of their closure are unknown. There is no evidence in Bank I's record that Account Owner Isak Israel or his heirs closed the accounts and received the proceeds themselves.

Account Owner Ernst Israel

With respect to Account Owner Ernst Israel, Bank I's record consists of a customer card. According to this record, Account Owner Ernst Israel was Ernst Israel, who resided in Zurich, Switzerland, in Heilbronn, and in London, England. Bank I's record indicates that Account Owner Ernst Israel held five accounts: two custody accounts, two demand deposit accounts, and one savings/passbook account. Bank I's record indicates that one of the custody accounts, numbered L56125, was opened on 31 August 1930 and closed on 31 March 1939, and that one of the demand deposit accounts was opened on 12 June 1936 and closed on 30 March 1939. With regard to one custody account, one demand deposit account, and the savings/passbook account, Bank I's record indicates that the accounts were closed, but the dates of closure are not legible. Bank I's record does not indicate the value of Account Owner Ernst Israel's accounts. There is no evidence in Bank I's record that Account Owner Ernst Israel or his heirs closed the accounts and received the proceeds themselves.

Account Owner Moritz Israel

With respect to Account Owner Moritz Israel, Bank I's records consist of a customer card and a list of Bank I's debtors. According to these records, Account Owner Moritz Israel was Moritz Israel, who resided in Zurich and in Heilbronn. Bank I's records indicate that Account Owner Moritz Israel held a custody account, numbered H1610. According to Bank I's records, the custody account was opened on 31 December 1921 and closed on 31 May 1933. The value of

the account on the date of its closure is not known. There is no evidence in Bank I's records that Account Owner Moritz Israel or his heirs closed the account and received the proceeds themselves.

According to the list of Bank I's debtors, as of 31 December 1935, Account Owner Moritz Israel, who used an address in Berlin-Dahlem, Germany, owed Bank I an amount of 191,458.00 Swiss Francs ("SF"), and that debt was secured by securities. Bank I's records indicate that Account Owner Moritz Israel's debit account was closed on 15 July 1937.

Bank II

Bank II's records submitted by 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") consist of printouts from Bank II's database. According to these records, Account Owner Isak Israel was Isak Israel, Account Owner Moritz Israel was Moritz Israel, and Account Owner Wolf was Emma Wolf, née Israel, who all resided in Heilbronn. Bank II's record indicates that Account Owner Isak Israel, Account Owner Moritz Israel, and Account Owner Wolf jointly held a custody account, numbered 11168, which was opened on 11 June 1931 and closed on 12 December 1935.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of Bank II to obtain additional information about this account ("Voluntary Assistance"). Bank II provided the CRT with additional documents. These documents consist of lists of account owners and another printout from Bank II's database, and indicate that Account Owner Albert Israel was also a joint owner of this account. According to these records, Account Owner Albert Israel was Albert Israel, who resided in Heilbronn.

The amount in the account on the date of its closure is unknown. There is no evidence in Bank II's records that Account Owner Isak Israel, Account Owner Moritz Israel, Account Owner Albert Israel, Account Owner Wolf, or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules, 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 four claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's grandfather's name, great-uncle's name, great-aunt's name and father's cousin's name match the published names of

Account Owner Isak Israel, Account Owner Moritz Israel, Account Owner Wolf and Account Owner Ernst Israel, respectively and the Claimant's paternal great-uncle's and paternal great-aunt's city of residence matches the published city of residence of Account Owner Moritz Israel and Account Owner Wolf. In addition, the Claimant's paternal great-uncle's name matches the unpublished name of Account Owner Albert Israel. The Claimant also identified his father's cousin's cities of residence as Heilbronn and London, identified the city of residence of his great-uncle, Albert Israel, as Heilbronn, identified his great-aunt's maiden surname, and indicated that his great-uncle, Moritz Israel, moved to Berlin in 1934, all of which matches unpublished information about Account Owner Ernst Israel, Account Owner Albert Wolf, Account Owner Wolf, and Account Owner Moritz Israel contained in the Banks' records.

In support of his claim, the Claimant submitted an affidavit, dated 28 November 1986, indicating that Isaac Israel, Morris Israel, Albert Israel and Emma Wolff were siblings, and that Ernest Israel was Albert Israel's son, and a family history written by the Claimant's paternal aunt, dated 16 June 1987, indicating that the Claimant's family resided in Heilbronn, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same city recorded in the Banks' records as the names and city of residence of the Account Owners. The CRT notes that the other claim to the accounts of Account Owner Ernst Israel was disconfirmed because that claimant provided a different city of residence than the cities of residence of Account Owner Ernst Israel. The CRT notes that there are no other claims to the other 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 they resided in Nazi Germany, and that their family business was seized by the Nazis in 1933. The Claimant also stated that Account Owner Ernst Israel fled Germany in July 1936 and that his German citizenship was revoked in 1939; that Account Owner Moritz Israel fled Germany around 1937 or 1938; and that Account Owner Albert Israel was deported to a concentration camp, where he perished.

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 Account Owner Isak Israel was the Claimant's grandfather, that Account Owner Moritz Israel and Account Owner Albert Israel were the Claimant's great-uncles, that Account Owner Wolf was the Claimant's great-aunt, and that Account Owner Ernst Israel was his father's cousin. These documents include his own birth certificate, indicating that his father was [REDACTED]; his father's birth certificate, indicating that [REDACTED]'s father was Isak Israel; and an affidavit, dated 28 November 1986, indicating that Isaac Israel, Morris Israel, Albert Israel and Emma Wolff were siblings, and that Ernest Israel was Albert Israel's son. There is no information to indicate that the Account Owners have other surviving heirs, other than the party whom the Claimant is representing.

The Issue of Who Received the Proceeds

With respect to the custody account, the demand deposit account and the savings/passbook account held by Account Owner Ernst Israel at Bank I, which were closed on unknown dates, given that Account Owner Ernst Israel fled Germany in July 1936; that there is no record of the payment of Account Owner Ernst Israel's accounts to him, nor any record of the dates of closure of the accounts; that Account Owner Ernst Israel and his heirs would not have been able to obtain information about his accounts after the Second World War from Bank I 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Ernst Israel or his 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 respect to the custody account and the demand deposit account held by Account Owner Isak Israel at Bank I, the custody account held by Account Owner Moritz Israel at Bank I, and the custody account jointly held by Account Owner Isak Israel, Account Owner Moritz Israel, Account Owner Albert Israel, and Account Owner Wolf at Bank II, given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax- and other confiscatory measures, including confiscation of assets held in Swiss banks; that Account Owner Isak Israel died on 20 October 1933 in Heilbronn; that Account Owner Moritz Israel remained in Germany until 1937 or 1938; that there is no evidence that Account Owner Wolf fled Germany prior to 1935; that Account Owner Albert Israel remained in Germany until his death in a concentration camp; that Account Owner Isak Israel, Account Owner Moritz Israel, Account Owner Albert Israel, and Account Owner Wolf would not have been able to repatriate their accounts to Germany without losing ultimate control over their proceeds; that there is no record of the payment of Account Owner Isak Israel's, Account Owner Moritz Israel's, Account Owner Albert Israel's, or Account Owner Wolf's accounts to them; that Account Owner Isak Israel, Account Owner Moritz Israel, Account Owner Albert Israel, Account Owner Wolf and their heirs would not have been able to obtain information about their accounts after the Second World War from the Banks 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; given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules (see Appendix A) and Appendix C,⁴ the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Isak Israel, Account Owner Moritz Israel, Account Owner Albert Israel, Account Owner Wolf or their heirs.

The CRT notes that Bank I's records indicate that one demand deposit account and one custody account held by Account Owner Ernst Israel were closed on 30 March 1939 and 31 March 1939, respectively, at which time, according to information provided by the Claimant, Account Owner Ernst Israel was outside Nazi-dominated territory. However, given that Bank I's records do not

⁴ Appendix C appears on the CRT-II website --www.crt-ii.org.

indicate to whom the accounts were closed, that Account Owner Ernst Israel fled his country of origin due to Nazi persecution, that Account Owner Ernst Israel had relatives remaining in his country of origin and that he may therefore have yielded to Nazi pressure to turn over his accounts to ensure their safety, that Account Owner Ernst Israel and his heirs would not have been able to obtain information about his accounts after the Second World War from Bank I, even for the stated purpose of obtaining indemnification from the German authorities, 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Ernst Israel or his heirs.

With regard to the debit account held by Account Owner Moritz Israel at Bank I, the CRT notes that this type of account indicates that the relationship between Account Owner Moritz Israel and Bank I was that of a creditor/debtor relationship, in which Account Owner Moritz Israel was the debtor. Bank I's records further indicate that the account was closed on 15 July 1937, indicating that Account Owner Moritz Israel repaid the funds he had borrowed from Bank I. Therefore, the CRT concludes that Account Owner Moritz Israel did not hold any positive assets in this account.

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 Account Owner Isak Israel was his grandfather, that Account Owner Moritz Israel and Account Owner Albert Israel were his great-uncles, that Account Owner Wolf was his great-aunt, and that Account Owner Ernst Israel was his father's cousin, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, Account Owner Isak Israel held one custody account and one demand deposit account, Account Owner Moritz Israel held one custody account, Account Owner Ernst Israel held two custody accounts, two demand deposit accounts and one savings/passbook account, and Account Owner Isak Israel, Account Owner Moritz Israel, Account Owner Albert Israel, and Account Owner Wolf jointly held one custody account. Therefore, the Award is for five custody accounts, three demand deposit accounts, and one savings/passbook 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 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 demand deposit account was SF 2,140.00, and the average value of a savings account was SF 830.00. Thus, the total 1945 average value of the accounts at issue is SF 72,250.00. 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 SF 903,125.00.

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 cousin, [REDACTED 2], and they are the grandchildren of Account Owner Isak Israel. Accordingly, the Claimant and his cousin 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
6 May 2006