

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Bertel (Bertha) Van Eek  
represented by Marietta Kilmer

and Claimant Gisela Cohen

and Claimant Walter Leo Spier  
also acting on behalf of Edith Baumann,  
Alfred Spier, and Martin Spier

## **in re Account of Julius Spier**

Claim Numbers: 202899/UM, 214855/UM, 500284/UM<sup>1</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Gisela Cohen, née Spier, (“Claimant Cohen”) to the account of Siegfried Spier<sup>2</sup> and the published account of Julius Spier, and the claims of Bertel (Bertha) Van Eek, née Spier, (“Claimant Van Eek”) and Walter Leo Spier (“Claimant Spier”) (together the “Claimants”) to the published account of Julius Spier (the “Account Owner”) at the St. Moritz branch of the [REDACTED] (the “Bank”).

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

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<sup>1</sup> Claimant Walter Leo Spier submitted an additional claim to the accounts of Abraham and Jenny Spier, which is registered under the Claim Number 201278. The CRT did not locate an account belonging to Claimant Walter Leo Spier’s relatives, Abraham and Jenny Spier, in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”).

<sup>2</sup> The CRT did not locate an account belonging to Claimant Cohen’s relative, Siegfried Spier, in the Account History Database prepared pursuant to the ICEP Investigation, which identified accounts probably belonging to Victims of Nazi Persecution, as defined in the Rules.

## **Information Provided by the Claimants**

### Claimant Van Eek

Claimant Van Eek submitted a Claim Form identifying the Account Owner as her father, Julius Spier, who was born on 19 February 1877 in Schrecksbach, Germany, and was married to Sara Spier, née Wallach, in Giesen, Germany in approximately 1902. Claimant Van Eek stated that her father, who was Jewish, was a businessman who owned a company named *Schwälmer National Trachten*, which was located at Dorfplatz 28 in Schrecksbach. Claimant Van Eek further stated that her parents had three children. She identified her two siblings as Jacob Spier, who was born in 1908, and Max Spier, who was born in 1914. In addition, Claimant Van Eek stated that her father fled from Germany to the Netherlands in 1937, and that he died there on 16 August 1944. Claimant Van Eek also indicated that her mother and two brothers all died in the United States: Max Spier in 1965, Sara Spier in 1971, and Jacob Spier in 1977.

Claimant Van Eek submitted her father's German passport, identifying him as Julius Spier, a businessman from Schrecksbach, and her own passport, identifying herself as Bertha Spier from Schrecksbach. Claimant Van Eek indicated that she was born on 31 March 1910 in Schrecksbach.

### Claimant Cohen

Claimant Cohen submitted a Claim Form identifying the Account Owner as her paternal uncle, Julius Spier, one of two sons of Michael Spier and Veilchen Spier, née Nussbaum. Claimant Cohen identified her father, Siegfried Spier, as the second son. Claimant Cohen indicated that her uncle, who was Jewish, was a dentist in Kassel, Germany, and that he was married and had one son. Claimant Cohen further indicated that, after the *Kristallnacht* ("Night of the Broken Glass") pogrom in November of 1938, her father and uncle both attempted to leave Germany with their families. Claimant Cohen stated that her uncle was able to secure a visa to Cuba for himself and his wife and son and that they subsequently fled to that country. Claimant Cohen additionally stated that her uncle attempted to secure the money necessary for Claimant Cohen's immediate family to emigrate to the United States, but that he was unable to do so, and that Claimant Cohen and her immediate family were subsequently deported to concentration camps. Finally, Claimant Cohen stated that her parents perished in Auschwitz in October 1944, and that her brother perished in Dachau in March 1945.

Claimant Cohen submitted her birth certificate, identifying her father as Siegfried Spier, and a letter from her uncle, Dr. Julius Spier, and his wife, sent from New York to Claimant Cohen in 1955. Claimant Cohen indicated that she was born on 29 November 1928 in Momberg, Germany.

Claimant Cohen previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her father, Siegfried Spier.

## Claimant Spier

Claimant Spier submitted a Claim Form identifying the Account Owner as his paternal uncle, Julius Spier, who was born in approximately 1880 in Marburg, Germany, and who was one of two sons of Isaac Spier and Minna Spier, née Ruelf. Claimant Spier identified his father, Abraham Spier, as the second son. Claimant Spier indicated that his uncle, who was Jewish, resided at Bockenheimer Landstrasse in Frankfurt, Germany. Claimant Spier further indicated that his uncle dealt with stocks, and that he had a seat on the stock exchange in Frankfurt, but that he was barred from participating in the stock exchange by the Nazi regime. Moreover, Claimant Spier indicated that his uncle fled to London, England sometime before 1945. In a previous Claim Form submitted by Claimant Spier, he specified that his uncle fled Germany in 1938.<sup>3</sup> Finally, Claimant Spier indicated that his uncle died in England in approximately 1958.

Claimant Spier submitted a copy of an envelope, addressed to Mr. and Mrs. Baumann in New York, which identifies the sender as Julius Spier who resided in London. Claimant Spier indicated that he was born on 17 January 1927 in Marburg. Claimant Spier represents his three siblings, all of whom were born in Rauschholzhausen, Germany: Edith Baumann, née Spier, who was born on 19 December 1920; Alfred Spier, who was born on 4 January 1924; and Martin Spier, who was born on 11 July 1925.

Claimant Spier previously submitted an IQ with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his parents, Abraham and Jenny Spier.

## **Information Available in the Bank's Records**

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owner was Julius Spier. The Bank's records do not contain information about the Account Owner's domicile. The Bank's records indicate that the Account Owner held one account, the type of which is not indicated, which was transferred to a suspense account for dormant accounts on 14 August 1954. The amount in the account on the date of its transfer was 136.50 Swiss Francs ("SF"). The account remains in the Bank's suspense account.

## **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 CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

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<sup>3</sup> As noted *supra*, note 1, Claimant Spier submitted an additional claim to the accounts of Abraham and Jenny Spier, which is registered under the Claim Number 201278.

## Identification of the Account Owner

Claimant Van Eek's father's name and Claimant Cohen's and Claimant Spier's uncles' names all match the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his name. In support of her claim, Claimant Van Eek submitted her father's German passport, identifying him as Julius Spier, providing independent verification that the person who is claimed to be the Account Owner by Claimant Van Eek had the same name recorded in the Bank's records as the name of the Account Owner. Similarly, in support of her claim, Claimant Cohen submitted a letter from Dr. Julius Spier, sent from New York to Claimant Cohen in 1955, providing independent verification that the person who is claimed to be the Account Owner by Claimant Cohen had the same name recorded in the Bank's records as the name of the Account Owner. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Julius Spier, and indicates that he resided in Kassel, Germany, which matches the information about the Account Owner provided by Claimant Cohen. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, in support of his claim, Claimant Spier submitted a copy of an envelope identifying the sender as Julius Spier, providing independent verification that the person who is claimed to be the Account Owner by Claimant Spier had the same name recorded in the Bank's records as the name of the Account Owner. The CRT notes that the name Julius Spier appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Moreover, the CRT notes that there are no other claims to this account.

The CRT additionally notes that Claimant Van Eek's, Claimant Cohen's and Claimant Spier's relatives are not the same person. However, given that the Claimants have each identified the published name of the Account Owner, and that the Bank's records contain no additional information which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner, the CRT finds that Claimant Van Eek, Claimant Cohen and Claimant Spier have each plausibly identified the Account Owner.

## Status of the Account Owner as a Victim of Nazi Persecution

### *Claimant Van Eek*

Claimant Van Eek has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant Van Eek stated that the Account Owner was Jewish, and that he fled from Nazi Germany to the Netherlands in 1937.

### *Claimant Cohen*

Claimant Cohen has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant Cohen stated that the Account Owner was Jewish, that he lived in Germany under the Nazi regime, and that he and his immediate family subsequently fled from

Kassel, Germany to Cuba. As noted above, a person named Julius Spier from Kassel was included in the CRT's database of victims.

#### *Claimant Spier*

Claimant Spier has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant Spier stated that the Account Owner was Jewish, that he was barred from participating in the stock exchange in Frankfurt by the Nazi regime, and that he fled to England in 1938.

#### The Claimants' Relationships to the Account Owner

##### *Claimant Van Eek*

Claimant Van Eek has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was her father. These documents include her father's German passport, identifying him as Julius Spier from Schrecksbach, and her own passport, identifying herself as Bertha Spier from Schrecksbach. The CRT notes that it is plausible that her father's passport is a document which most likely only a family member would possess. There is no information to indicate that the Account Owner has other surviving heirs who have submitted a claim.

##### *Claimant Cohen*

Claimant Cohen has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was her paternal uncle. Claimant Cohen submitted her own birth certificate, identifying her father as Siegfried Spier. In addition, Claimant Cohen submitted a letter from Dr. Julius Spier and his wife, sent from New York to Claimant Cohen in 1955. The CRT notes that it is plausible that this document is a document which most likely only someone close to the sender of the letter would possess. The CRT notes that Claimant Cohen also identified information which matches information contained in the Yad Vashem records. There is no information to indicate that the Account Owner has other surviving heirs who have submitted a claim.

##### *Claimant Spier*

Claimant Spier has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was his paternal uncle. These documents include a copy of an envelope, which is addressed to Mr. and Mrs. Baumann, who the CRT notes is plausibly Claimant Spier's sister, identifying the sender as Julius Spier. There is no information to indicate that the Account Owner has other surviving heirs other than the parties whom Claimant Spier is representing.

### The Issue of Who Received the Proceeds

The Bank's records indicate that the account was transferred to a suspense account, where it remains today.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant Van Eek has plausibly demonstrated that the Account Owner was her father, and Claimant Cohen and Claimant Spier have each plausibly demonstrated that the Account Owner was their uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 14 August 1954 was SF 136.50. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 150.00, which reflects standardized bank fees charged to the account between January 1945 and August 1954. Consequently, the adjusted balance of the account at issue is SF 286.50. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 49,375.00.

### Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under the Rules. In this case, Claimant Van Eek, Claimant Cohen and Claimant Spier have each established a plausible relationship to a respective relative with the same name as the Account Owner.

According to Article 23(c), 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. Moreover, according to Article 23(d), 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. Accordingly, Claimant Van Eek, Claimant Cohen and Claimant Spier are each entitled to one-third of the total award amount. As Claimant Spier is representing his

siblings, Edith Baumann, née Spier, Alfred Spier and Martin Spier, his siblings are each entitled to one-quarter of Claimant Spier's share of the award, or one-twelfth of the total 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  
18 November 2004