

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Account of Martin and Paula Wolff**

Claim Number: 785245/AZ<sup>1</sup>

Award Amount: 105,337.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the unpublished account of Martin and Paula Wolff (the “Account Owners”) at [REDACTED] (the “Custodian”) in Basel.<sup>2,3</sup>

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<sup>1</sup> With regard to this claim, Claimant [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999, she submitted an IQ, numbered ENG-0596181, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). This IQ was forwarded to the CRT and has been assigned claim number 785245. The Claimant also submitted a Claim Form, which was registered under the Claim Number 401293, and a second IQ, numbered ENG-0596178, which has been assigned Claim Number 785244. The CRT will treat these claims in separate determinations.

<sup>2</sup> The CRT notes that it has jurisdiction over accounts at [REDACTED] (the “Custodian”), under the settlement reached by the parties to the Holocaust Victim Assets Litigation, even though the Custodian is not a bank and was not included in the investigation of Swiss banks carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify the accounts of Victims of Nazi Persecution. According to the Settlement Agreement, “Deposited Assets means any and all Assets actually or allegedly deposited . . . with any custodian, including, without limitation, a bank, branch or agency of a bank, other banking organization or custodial institution or investment fund established or operated by a bank headquartered or based in Switzerland at any time (including, without limitation, the affiliates, subsidiaries, branches, agencies, or offices of such banks, branches, agencies, custodial institutions, and investment funds that are or were located either inside or outside Switzerland at any time) in any kind of account (including, without limitation, a safe deposit box, or securities account) prior to May 9, 1945, that belonged to a Victim or Target of Nazi Persecution... and/or (2) any and all assets that the ICEP or the Claims Resolution Tribunal determines should be paid to a particular claimant or to the Settlement Fund because the assets definitely or probably belonged to an individual [or business entity] actually persecuted by the Nazi regime or targeted for persecution by the Nazi regime for any reason.” [emphasis added] In re Holocaust Victim Assets Litigation 105 F. Supp.2d 139 (E.D.N.Y. 2000), Exhibit I to Plan of Allocation, Class Action Settlement Agreement (26 January 1999), 2-3, text available at <[http://www.swissbankclaims.com/PDFs\\_Eng/exhibitItoPlanofAllocation.pdf](http://www.swissbankclaims.com/PDFs_Eng/exhibitItoPlanofAllocation.pdf)>

Furthermore, although it was not a party to the Holocaust Victim Assets Litigation, the Custodian is among the parties whose liability is released by the Settlement Agreement, since “Releasees means the Settling Defendants; the Swiss National Bank; Other Swiss Banks; the Swiss Bankers Association; the Swiss Confederation (including, without limitation, the Cantons and all other political subdivisions and government instrumentalities in Switzerland); all business concerns (whether organized as corporations or otherwise) headquartered, organized, or incorporated in Switzerland as of October 3, 1996 . . . .” [emphasis added] *Id.* at 3. Additionally, the CRT has previously

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 Initial Questionnaire identifying the Account Owners as her maternal grandparents, Martin Wolff, who was born 20 May 1877 in Thorn, West Prussia, Germany; today Torun, Poland, and Paula Wolff, née Lewinsohn, who was born on 15 February 1885 in Thorn. The Claimant stated that her grandparents were married on 12 August 1907 in Thorn. The Claimant indicated that her grandparents, who were Jewish, owned a pharmacy in Braunsberg, East Prussia, Germany (now Braniewo, Poland) until October 1936, when they were forced to sell the business and relocate to Berlin, Germany. The Claimant further indicated that in approximately 1936 or 1937, their children – [REDACTED] (the Claimant’s mother) and [REDACTED] - were allowed to emigrate to the United States, and that they unsuccessfully attempted to get their parents out of Nazi Germany. According to the Claimant, in early 1942, her grandparents’ belongings were confiscated and they were forced to give up their apartment and to share two rooms with a stranger; soon after, they went into hiding. According to the Claimant, her grandparents were captured and, on 3 October 1942, they were deported to a slave labor camp in Reval, Estonia, where they perished in approximately 1943. The Claimant stated that her mother died in 1968 and that her maternal uncle [REDACTED] died in 1970, both in the United States.

In support of her claim, the Claimant submitted copies of documents, including: 1) a letter from her grandparents to their children, dated in Berlin-Charlottenburg on 22 May 1939, describing their circumstances in Nazi Germany; 2) a letter, dated 3 January 1942, to her maternal uncle in New York from a notary in Bern, Switzerland, written at the direction of her grandparents, which is described in detail below; and 3) excerpts from a book containing the names of Jewish Holocaust victims from Berlin, published in 1995, indicating that Martin Wolff, who was born on 20 May 1877 in Thorn, and Paula Wolff, née Lewinsohn, who was born on 15 February 1885 in Thorn, resided together in Berlin-Charlottenburg, that they were deported on 3 October 1942, and that they perished in Reval.

The Claimant indicated that she was born on 26 September 1948 in the United States.

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awarded an account held at a Swiss bank which was not included in the ICEP Investigation and was not among the Settling Defendants (*In re Account of Martin Frank*, approved 10 September 2004).

<sup>3</sup> 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”) and on the additional List of Account Owners Published in 2005 (the “2005 List”), the names P. Wolf and P. Wolff appear. Upon careful review, the CRT has determined that neither P. Wolf nor P. Wolff is the same individual addressed in the current decision and, consequently, the Claimant has not identified these other account owners as her relative.

## **Information Available in Documents Pertaining to the Account**

The CRT notes that the Custodian was not included in the investigation of various Swiss banks to identify accounts of Victims of Nazi Persecution pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the ICEP Investigation”). A document evidencing the existence of the account was obtained by the Claimant and forwarded to the CRT.

This document consists of a letter, mentioned above, from Fritz Schultz in Bern, to [REDACTED] in New York. The return address on the letter is identified as Fritz Schultz, care of “Notar Adolf ERNI, Spitalgasse 35, Bern.” This letter indicates Fritz Schultz had last seen the Account Owners ([REDACTED]’s parents), Martin and Paula Wolff, on 22 December 1941; that the Nazis were preparing to deport them and the rest of the local Jewish community, likely to Poland; that the Nazis were in the process of recording and confiscating the assets of the Jewish community; and that Martin and Paula Wolff’s house and many of their belongings had been seized.

This letter further states that a shipment of the Account Owners’ possessions - including a case, a sleeping bag, and six suitcases - had arrived at the Custodian in Basel on 23 December 1941. Fritz Schultz indicated that he had personally delivered the key to these items to the Custodian and arranged for delivery to be made at [REDACTED]’s disposal. In addition, Fritz Schultz stated that these goods had been insured for 8,000.00 Swiss Francs (“SF”), that the Custodian had received the amount of SF 427.00 as payment for its services, and that an additional six months of storage, insurance, and similar fees would cost SF 126.00.

There is no evidence in this letter that the Account Owners or their heirs ever received any of these goods. In additional correspondence with the CRT, on 23 May 2007, the CRT indicated that she had never heard about the fate of these items from her family members and does not know whether they were ever received.

## **The CRT’s Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The CRT notes that the Claimant submitted the document demonstrating the existence of the account.

The CRT further notes that a database containing the names of Victims of Nazi Persecution includes official archival records, along with testimony submitted by the Claimant in 1995, which indicate that Martin Wolff (who was born in May 1877 in Torun) and Paula Wolff, née Lewinsohn (who was born in February 1885 in Torun) were married; that they resided in Braunsberg, followed by Berlin; and that they perished in Reval, which matches the information about the Account Owners provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account.

### 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 and that they perished in a concentration camp. The Claimant also submitted letters, dated 1939 and 1942, describing the Account Owners' fate in Nazi Germany, as well as an excerpt from a published list of Holocaust victims, indicating that the Account Owners perished in a concentration camp. As indicated above, persons named Martin Wolff and Paula Wolff, née Lewinsohn, were included in the CRT's database of victims.

### The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information, demonstrating that the Account Owners were her maternal grandparents.

The CRT notes that the Claimant submitted testimony to Yad Vashem in 1995, identifying her relationship to the Account Owners; and that the Claimant further identified information which matches information contained in Yad Vashem records derived from other sources. The CRT further notes that the Claimant submitted a letter sent to [REDACTED] at the direction of his parents, Martin and Paula Wolff, evidencing the existence of the account. The CRT notes that this document is a document which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners 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 Owners, as she has asserted in her Initial Questionnaire. The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owners' account in this decision.

### The Issue of Who Received the Proceeds

The CRT notes that the document submitted by the Claimant indicates that the Claimant's relatives were the owners of assets deposited with the Custodian, that the Custodian was a Swiss entity, and that the assets were deposited in 1941, which is during the Relevant Period, which is defined in the Rules Governing the Claims Resolution Process, as amended, (the "Rules") as the period from 1933 to 1945. The CRT notes that this document, written in German by a notary in his capacity as notary on behalf of the Claimant's relatives and sent from the office of the notary firm in which the notary wrote, is a contemporaneous record of the deposit of the assets. It describes the assets, indicates their value, and identifies the Custodian and the fees paid to the Custodian. This document therefore shows that assets belonging to the Claimant's relatives were deposited with a Swiss Custodian during the Relevant Period. The CRT notes that the firm "Notar Adolf ERNI" no longer exists at Spitalgasse 35 in Bern. However, there is an office building at that address, which houses several businesses. Even though the notary firm itself no longer exists at this location, the fact that an office building is located there indicates that the location has been used for business rather than residential purposes.

Further, in a telephone conversation with the CRT on 11 July 2007, the *Justiz- Gemeinde- und Kirchendirektion des Kantons Bern* (the Office of Justice- Community- and Ecclesiastical Administration for the Canton of Bern, the “Cantonal Administration Office”) confirmed that Adolf Erni was a registered notary in Bern between 1936 and 1978. According to the information provided by the Cantonal Administration Office, Adolf Erni’s office was located in Bern at Spitalgasse 35 until 1954, when it was moved to Bahnhofplatz 5, also in Bern. The Cantonal Administration Office stated that the name Fritz Schulz was not included in the register of notaries for the Canton of Bern.

The CRT notes that, even though Fritz Schulz was not included in the register of notaries for the Canton of Bern, Adolf Erni was, and that Fritz Schulz provided Adolf Erni’s notary office as his address. It is not clear if Fritz Schulz was employed by the notary firm, or if he simply used it as a correspondence address. In any case, the fact that the Cantonal Administration Office confirmed that Adolf Erni was a notary located at that address substantiates the authenticity of the letter provided by the Claimant.

The CRT has therefore determined that the evidence submitted by the Claimant is sufficient to justify an award based on this document. According to Article 17 of the Rules, the CRT shall use the records and files available from the Account History Database, the Account Dossiers, and the Total Accounts Database, the information submitted by the Claimants, and to the extent that the CRT deems relevant, other sources of information to determine whether an award is justified. The CRT has previously awarded accounts to Claimants when the ICEP Investigation failed to locate an account belonging to their relative (an account not included in the Account History Database, the Account Dossiers, and the Total Accounts Database). The evidence submitted by these Claimants falls into very limited categories. Article 17 of the Rules lists certain categories of evidence that the CRT has used to justify an award when an account is not identified in the ICEP Investigation. These categories include Austrian State Archives Records and other government records, records of the New York State Holocaust Claims Processing Office, and any other historical and factual material available to the CRT. Examples of facially reliable evidence submitted by Claimants include actual bank documents, documents submitted to an official governmental agency, and official letterhead indicating a connection to a Swiss bank. The CRT notes that although a notary is not a government official, a letter from a person using the address of a notary implies that the writer does represent that his/her written statements are true and factual. Moreover, as noted above, the fact that the Cantonal Administration Office confirmed that Adolf Erni was a notary located at the address provided by Fritz Schulz substantiates the authenticity of the letter provided by the Claimant. Therefore, in this case, the CRT considers the contemporaneous record provided by the Claimant to be facially reliable evidence.<sup>4</sup>

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<sup>4</sup> For a similar case in which an account was awarded based upon documents submitted by the Claimant indicating that suitcases of goods were deposited in Switzerland, *see In re Accounts of Simon Sonabend* (approved on 8 June 2004). In that case, two accounts of unknown type were awarded. The existence of one account was based upon a police report from the Bern Cantonal Police dated 9 February 1963, which indicated that a friend of the Account Owner had opened a suitcase that the Account Owner left with him and deposited US \$200.00 in a Swiss bank. The existence of the second account was based upon the Account Owner’s statement to Swiss police, dated 1942, in which he stated that he had fled to Switzerland with various currencies.

The CRT notes that the Swiss notary who acted as the Account Owners' agent was in contact with their son - who was outside of Nazi-dominated territory - as of January 1942, and informed him that he could arrange for delivery at his disposal. However, the Claimant has stated that she does not remember hearing that any of her relatives ever received these assets. Given that there is nothing to indicate that the assets were ever delivered to the Account Owners' relatives; that the notary indicated that the Nazis were actively attempting to seize the assets of the Account Owners and the Jewish community; that the Account Owners were deported to a concentration camp, where they perished; that the Account Owners' son and their other heirs would not have been able to obtain information about their account after the Second World War from the Custodian, even for the stated purpose of obtaining indemnification from the German authorities, due to the Swiss banks' and other custodians' 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 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.

#### 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 the Account Owners were her grandparents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owners deposited various goods, including several suitcases containing unknown items, with the Custodian. The letter submitted by the Claimant indicates that these goods were insured for SF 8,000.00 as of January 1942. In the absence of plausible evidence to the contrary, the CRT determines that this is the best approximation of their value at that time. This amount is increased by an adjustment of SF 427.00, reflecting fees that were charged and received by the Custodian for its services. Consequently, the adjusted balance of the account is SF 8,427.00. The current value of the amount of the award is determined by multiplying the historical value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 105,337.50.

#### **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 her claim to determine whether there are additional Swiss bank accounts to which she 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  
31 August 2007