TEL AVIV-JAFFA DISTRICT COURT

[redacted]

CA 35524-11-23 [redacted]

Application No. 16

Before: The Honourable Judge Michal Amit-Anisman

Applicant: [redacted]
Represented by Adv. Yoav Harris

v.

Respondent: [redacted]
Represented by Advs. Ofer Rahmani, Ehud Yartzon and Ephraim Aligula

DECISION

Before me is the application of the defendant, Mr. [redacted] (the "Applicant"), for summary dismissal on the ground of limitation of the claim brought against him by the plaintiff, Mr. [redacted](the "Respondent"), in respect of an alleged debt of NIS 5,497,767.

Relevant Background

1. The events underlying the action began in 2009, when the Applicant proposed a business venture to the Respondent under which the Respondent would invest EUR 2,600,000 in a company engaged in trading carbon-emission allowances and would be entitled to profits (the "Funds" or the "Investment"). There is no dispute that the Funds were transferred by the Respondent to the Applicant. The parties dispute whether they were transferred in trust or constituted an ordinary investment carrying the attendant prospects and risks. It is also undisputed that part of the Funds was returned. The dispute concerns the balance and whether the Respondent is entitled to recover it. The amount claimed reflects the balance which, according to the Respondent, remained with the Applicant: EUR 1,102,000.

Summary of the Allegations in the Statement of Claim

2. The Respondent states that he is an Israeli resident and citizen who immigrated from France, and that he lived in France during most of the years relevant to the claim. The Applicant, it is alleged, immigrated from France and has lived in Israel since August 2009.

3. The Respondent alleges that in October 2009 the Applicant approached him and proposed that he invest in FINOTEC (the "Company"), which the Applicant allegedly acquired for EUR 20,000,000. Under the proposal, the Respondent would provide EUR 2,600,000 in exchange for 13% of the Company's shares and weekly profits. The Applicant further allegedly undertook that the principal would in all circumstances be secured by funds held in banks, so that the Respondent's money would be safe and protected and could be recovered at any time, without financial risk.

The Respondent claims that he regarded the Applicant as his trustee and, relying on the Applicant's representations, transferred EUR 2,600,000 to him.

4. At the end of February 2010, five months after the Investment, the promised weekly profits had allegedly not been paid. The Respondent demanded the unpaid profits, repayment of the Investment, and various expenses incurred in raising the Funds. Between February and mid-April 2010, the Applicant allegedly made six payments totalling EUR 81,000 on account of the promised profits.

5. At the end of March or the beginning of April 2010 (the exact date is not pleaded), the parties allegedly met in Eilat. The Applicant is said to have undertaken to return, within ten days in Tel Aviv, the entire principal of EUR 2,600,000 transferred by the Respondent and held by him (the "Meeting"). It is further alleged that, even after repayment, the Respondent would remain a shareholder holding 13% of the Company and would continue to earn profits.

6. It is alleged that between April and September 2010 the Applicant returned EUR 1,498,000 in various payments, leaving EUR 1,102,000 in his hands, without taking account of the promised profits.

7. The Respondent further alleges that he later learned that the Applicant had not acquired the Company; that the Applicant had invested only EUR 1,600,000 for a 7% interest; and that the Company's owners later bought out the Applicant's holding for EUR 1,400,000. It is therefore alleged that the Applicant, with whom the Funds had been deposited as trustee, deceived the Respondent, fulfilled none of his promises, and directly appropriated approximately EUR 1,102,000.

8. The matter escalated when the Applicant's brother was kidnapped by the Respondent. Criminal proceedings were conducted against the Respondent in France for that kidnapping. The Respondent pleads that, in those proceedings, he was prohibited from leaving France or contacting the Applicant in any manner until October 2022, and therefore did not commence proceedings until the present action was filed. He asserts that any contact with the Applicant would have breached French criminal law and exposed him to further criminal proceedings.

9. The Respondent alleges that the Funds were delivered to the Applicant in trust, a trust capable of being proved by implication from an oral agreement, the parties' conduct, and their acts, without a written agreement. He further argues that when shares are acquired in trust, they are registered in the trustee's name rather than the beneficiary's. The Respondent also alleges that the Applicant admitted that a balance remained in his hands; that the French investigating judge's file contains numerous oral and written admissions by the Applicant concerning the Funds he had to return; and that these statements constitute admissions by a party. Letters and demands for repayment were allegedly answered by blanket denials without a substantive response, leading to the filing of this action.

[redacted]

Summary of the Allegations in the Statement of Defence

10. By way of background, the Applicant alleges that he is a law-abiding person, whereas the Respondent is a convicted criminal in France. In 1999 the Respondent was convicted of murder, sentenced to ten years' imprisonment, and released in 2002 after serving nearly four years. Following his release, the Respondent allegedly began extorting the Applicant by threats in order to obtain money unlawfully. In September 2010, he allegedly arranged for a gang to kidnap the Applicant's brother in order to extort money. French law-enforcement authorities located the kidnapped brother. The Respondent was arrested and, by a French judgment of December 2018, convicted with others of kidnapping and imprisoning the Applicant's brother and sentenced to ten years' imprisonment, six years of which were suspended.

11. The Applicant raises preliminary defences, including that the action should be summarily dismissed as time-barred; that it constitutes an abuse of rights; that it is barred by estoppel and preclusion; and that it discloses no cause of action or privity. This decision concerns the limitation defence.

12. On the merits, the Applicant alleges that in 2009 he acted as a broker in the trade of carbon-emission allowances through two American companies, a Romanian company, and a Panamanian company (the "Group Companies"). From June 2009, the Group Companies provided brokerage services to two Hong Kong companies: DENCO LIMITED, managed by Mr. Stefan Kashkash ("Stefan"), brother-in-law of Mr. Dan Balhassan ("Balhassan"), the Respondent's partner, whom the Applicant knew from the Jewish business community in Switzerland; and CHARM WIDE INTERNATIONAL LIMITED (together, the "Hong Kong Companies").

13. In September 2009, the Applicant told Balhassan that he intended to acquire a financial company in London through which to conduct brokerage and trading in electricity and gas, using an existing company to enter the market. Balhassan allegedly agreed to invest EUR 2,600,000 in exchange for 13% of the profits, and the Respondent, his partner, also agreed to the Investment.

14. During a trip by the Applicant to New York, accompanied by Balhassan, the Applicant met the Respondent, explained the plan, and said that if it did not proceed the Company's shares could be sold. The Applicant denies ever stating that the Investment was guaranteed; by its nature an investment entails both prospects and risks. It later became apparent, he says, that while he believed he was entering a business venture with Balhassan and the Respondent, the Respondent viewed the Applicant's involvement in the energy sector and apparent wealth as potential "prey".

15. The Investment was made between the Hong Kong Companies and the Group Companies. Of the Funds received, the Group Companies invested EUR 1,600,000 in the Company for nine million shares. One Group Company deposited EUR 1,000,000 with TOTAL GLOBAL STEEL LTD ("TGS"), a commodities trader connected to the electricity and gas trading network, through which several isolated transactions were carried out. TGS entered insolvency proceedings and a liquidator was appointed in August 2012 after one of its directors misappropriated company funds and it sold used carbon-emission allowances to Deutsche Bank, requiring it to compensate the bank by EUR 4,200,000.

16. The business venture did not progress quickly because of bureaucratic difficulties. In February 2010, Balhassan allegedly came to the Applicant's Tel Aviv office and, under threats, demanded interest of EUR 81,000. The Applicant explained that this was an investment rather than a loan and that profits could be distributed only when income and profits existed.

17. Between February and April 2010, because of the alleged extortion and threats, the Applicant transferred to the Respondent five payments of EUR 81,000 each. He also transferred to one of the Hong Kong Companies "green certificates" worth EUR 60,000. It is alleged that additional monies were probably transferred and that the Applicant was required to transfer title to his home to the Respondent.

18. At the beginning of April 2010, Balhassan and the Respondent's father, [redacted] allegedly came to the Applicant's Tel Aviv office for an introductory meeting. At later meetings, the father allegedly threatened the Applicant and stated that the invested Funds belonged to him and his partners, and that Balhassan was his employee.

19. The Applicant alleges that when he announced his intention to travel to London in April 2010, the Respondent's father was "attached" to him for the journey and subjected him to constant threats. During the trip the Applicant collected money from acquaintances and friends and transferred to him EUR 20,000 in cash and GBP 45,000, equivalent to approximately EUR 60,000. On 28 April 2010 the Applicant succeeded in escaping with his family under the protection of a security company. After selling the Company's shares, he transferred a total of EUR 1,950,000 to the Respondent as a result of extortion by threats. The threats and extortion allegedly continued between May and July 2010.

20. On 28 September 2010, the Applicant's brother was kidnapped by a gang allegedly acting for the Respondent. The kidnappers told the victim's wife that he would be released once the Applicant paid his debt to the Respondent. The statement of defence describes the events in detail. For present purposes, it is alleged that, because of the threats and extortion, the Applicant transferred an aggregate of EUR 2,263,000 to the Respondent.

21. The Respondent was arrested on 14 December 2010 and evidence linking him to the kidnapping was found. On 7 December 2018 he was convicted of kidnapping the Applicant's brother. He was also ordered to pay EUR 40,000 to the brother and EUR 20,000 to the Applicant, sums that remain unpaid.

Summary of the Procedural History

22. On 22 January 2025, pursuant to the Civil Procedure Regulations, the Applicant filed a list of applications, including applications for summary dismissal on the grounds of limitation and of estoppel and preclusion. On 3 February 2025 the Respondent filed his response.

23. On 11 February 2025, an extensive first pre-trial hearing was held before me, including in relation to the listed applications. After being duly cautioned, the Respondent testified and gave his account of the events. That account is addressed below.

24. At the conclusion of the hearing and after hearing the Respondent's testimony, the Applicant maintained his application for summary dismissal on limitation grounds. Because the application as set out in the list was concise, the Applicant was permitted to file a detailed application.

25. On 8 May 2025, the Applicant filed applications for summary dismissal both on limitation grounds and on grounds of estoppel and preclusion. The limitation application is the application presently before me.

26. The Respondent's response was filed on 31 July 2025 and the Applicant's reply on 30 September 2025.

Summary of the Applicant's Arguments on Limitation

27. The application is founded on paragraph 7 of the statement of claim, according to which, at the Eilat Meeting, the Applicant undertook to return all the Funds within ten days, and on paragraph 9, according to which several partial payments were made, the last on 29 September 2010. The Respondent therefore claims entitlement to recover the balance.

28. The Applicant submits that a claim for the balance, payable ten days after the beginning of April 2010, became time-barred on 15 April 2017, or at the latest on 29 September 2017, seven years after the last alleged partial payment. At the pre-trial hearing, the Respondent stated that by May 2010 he understood that the Funds would not be returned; accordingly, even on his account, the cause of action arose then and expired in May 2017. Even if the Funds were held in trust, as alleged, they were to be returned "within ten days in April 2010", so the limitation period commenced at that time.

29. The Applicant further argues that he never admitted the alleged trust and repeatedly maintained that this was an investment which partly failed to mature and was partly unsuccessful. Moreover, throughout the French criminal proceedings, the Respondent denied any interaction with the Applicant. In his questioning on 14 December 2010, he said that he did not know the Applicant and that "I have no business whatsoever with this person" (Appendix 7). It is therefore clear, the Applicant submits, that the Respondent did not regard him as a trustee.

30. The Applicant argues that the prohibitions and orders imposed in the French criminal proceedings did not prevent the Respondent from commencing legal proceedings. He appended what he describes as a legal opinion by Adv. Julie Benarovy concerning French law. This is not a foreign-law opinion prepared in accordance with the rules of evidence, but appears to be an affidavit made and signed in France; the Applicant himself calls it a "legal affidavit". On its basis, he argues that the Respondent could have commenced proceedings. French law, he says, is concerned with preserving evidence, preventing pressure on witnesses or victims, and avoiding interference with investigations of additional suspects; it does not stop time running for a civil monetary claim. The restriction in the 7 December 2018 sentence was a prohibition on contacting the civil parties and did not prevent the Respondent from bringing a civil action to enforce personal rights.

31. The Applicant adds that on 29 May 2022, while the no-contact restriction was still in force, the Respondent sent a letter headed "Warning before Legal Proceedings", repeating what the Applicant calls extortionate demands and allowing 21 days before legal action. On 21 September 2022, through counsel, the Respondent sent the Applicant a "draft statement of claim" and an invitation to meet. The draft was not appended. This shows, according to the Applicant, that when properly represented, the Respondent did not regard the no-contact restriction as barring proceedings. He is bound by that admission and estopped from asserting otherwise.

32. The Applicant also relies on a 7 February 2024 order in Threatening Harassment Case 63730-01-24, prohibiting the Respondent from contacting the Applicant or his family or approaching within 300 metres. That order did not prevent service of the statement of claim at the Applicant's address on 28 March 2024. Such restrictions plainly do not suspend the limitation period.

33. The Applicant therefore submits that the claim should be summarily dismissed as time-barred under sections 5(1) and 6 of the Limitation Law, 5718-1958 (the "Limitation Law").

Summary of the Respondent's Arguments in Opposition

34. The Respondent argues that whether a trust relationship existed requires factual inquiry which should be conducted together with the merits, and that the limitation issue should therefore be deferred. Under section 9 of the Limitation Law, he says, the Applicant's acknowledgment of the Respondent's right restarts the limitation period from the date of acknowledgment. Such an acknowledgment must expressly and fully recognize the legal right, or at least admit facts clearly establishing it. The Applicant allegedly acknowledged the debt over the years, including at the pre-trial hearing, and claimed to have repaid most of it. Having acknowledged the debt, he must prove repayment and cannot rely on limitation.

35. The Respondent contends that the statement of defence itself reveals fraud and deceit amounting to an admission: the Respondent relied on the Applicant to acquire shares for him and report and account for their profits, while the Applicant registered the shares in his own name, appropriated the profits, and concealed them.

36. The Respondent also argues that, in the protection-order proceedings, the Applicant admitted that French criminal law prohibited the Respondent from making any contact with him. The same allegedly appears from the expert opinion appended to the application. Because breach could have led to further criminal proceedings or activation of the suspended sentence, the prohibition prevented enforcement of the Respondent's rights, as stated by his French counsel, Adv. Jean-Gilles Halimi. The restriction allegedly remained in force until October 2022.

37. As to the trust, the Respondent submits that the statement of defence admits the principal facts, thereby renewing the limitation period: receipt of the Respondent's Funds; investment of those Funds; registration in the Applicant's name of the resulting shares and benefits, characteristics of trusteeship; an undertaking to return the Funds; a demand to transfer the shares to the Respondent, which the Applicant refused; and the acquisition of assets with the Funds. These matters allegedly show that the Applicant held the Funds, shares, and investments as trustee, returned only part, and concealed the documents relating to the share transaction.

38. The Respondent argues that limitation in a trustee-beneficiary relationship runs only when the trustee denies the trust. That denial allegedly arose only recently, when the Applicant asserted in his defence that he had repaid all the Funds, while at the pre-trial hearing he allegedly referred to a EUR 300,000 balance. Where the Applicant's case reveals fraud and deceit, and the Respondent could not contact him because of foreign-law restrictions, time should run only when the trustee denied or breached his duties; the rationales of limitation do not apply to claims founded on fraud.

39. The Respondent further argues that the postponement provisions in section 8 of the Limitation Law apply to causes of action arising from a trustee's conduct, but the beneficiary must know of the denial or breach. Since the Applicant did not deny the debt and returned most of the Funds, the relationship should be treated as a trust. Until the Respondent's counsel approached the Applicant in 2022, the Applicant allegedly did not deny holding the Funds in trust, so time began only upon that first denial.

40. The Respondent also relies on section 14 of the Limitation Law, arguing that imprisonment abroad created a substantial difficulty in conducting proceedings and suspended the limitation period. A complex evidentiary proceeding involving cross-examination concerning the creation of the debt could not be conducted while he was imprisoned or subject to French-law restrictions. He further invokes section 7, alleging that the Applicant, as trustee, misled, deceived, and lied to him and misused the trust Funds; therefore, the Applicant's bad-faith limitation defence should not permit him to evade the debt.

Summary of the Applicant's Reply

41. The Applicant submits that the application is based on the facts pleaded in the statement of claim and requires no additional factual inquiry. Even if a complex legal issue must be decided, that does not justify postponing limitation to the merits. In any event, there is no complex legal issue; the Respondent's acts do not suspend time, and his arguments have no basis in the language or purposes of the Law.

42. The Applicant further submits that neither statute nor case law supports the proposition that the Respondent's conviction and imprisonment suspended limitation in an action against his victim. On the Respondent's own testimony, by May 2010 he understood that he would not recover the Funds. Even accepting that improved version, time began in May 2010 and expired regardless of whether the Funds were transferred in trust or in any other form.

43. The Applicant argues that the Respondent's failure to file a counter-opinion concerning the alleged no-contact prohibition reinforces the conclusion that he could have sued from May 2010. Filing a statement of claim is not contact between an offender and a victim. The period of imprisonment or probation should not be construed to suspend limitation and permit renewed harassment of a victim over events occurring fourteen years earlier.

44. Case law has expressed doubt whether imprisonment abroad, by itself, constitutes the "substantial difficulty" required by section 14. Because the Respondent's acts against the Applicant's brother caused his imprisonment, he is estopped from invoking that section against his victim. In any event, the actual imprisonment lasted less than one year, from December 2018 until April or October 2019. Suspending time for that period cannot assist a claim filed approximately thirteen and a half years after time began.

Further Procedural History

45. The application was heard on 12 February 2026. The Applicant did not seek to cross-examine the Respondent, counsel explaining (p. 12, ll. 12-13) that the application was based on the statement of claim and that "we have nothing to investigate". The Applicant was cross-examined on his affidavit.

46. The Applicant's written submissions were filed on 19 February 2026; the Respondent's on 13 March 2026; and the Applicant's reply submissions on 15 March 2026. The application is therefore ripe for determination.

Discussion and Determination

47. The Court's power to dismiss an action at any time because it is time-barred is prescribed by regulation 43 of the Civil Procedure Regulations, 5779-2018 (the "Regulations"). Given the grave consequences of disposing of a claim before trial, that power is exercised only in exceptional cases where, on the pleaded facts, the plaintiff could under no circumstances obtain the relief sought. This applies with particular force to dismissal, rather than striking out, because dismissal creates res judicata against the plaintiff [CA 5634/05 Tzukit HaCarmel Projects Ltd. v. Micha Tzach General Contracting Co. Ltd., paras. 12-13 (Nevo, 4 June 2007); LCA 6938/19 Ilani v. Baruch, para. 22 of Justice Grosskopf's judgment (Nevo, 20 August 2020)].

48. The rule is that where summary dismissal is sought on limitation grounds, the starting point is that the facts pleaded in the statement of claim are true. If factual and evidentiary inquiry on the merits may affect the limitation issue, limitation should not be determined as a preliminary question [CA 2919/07 State of Israel - Atomic Energy Commission v. Guy-Lipel, 64(2) PD 82, 110 (2010) (the "Atomic Energy Commission case")].

49. In the Atomic Energy Commission case (p. 111), the Supreme Court identified the rationales underlying procedural limitation. First, the evidentiary rationale: the burden on defendants of preserving evidence and documents over time, when evidence naturally disappears and the truth becomes harder to determine. Second, the defendant's interest in certainty regarding rights and obligations, enabling affairs to be arranged without maintaining a financial reserve against old claims. Third, the assumption that a plaintiff who has long "slept on his rights" has abandoned, waived, or forgiven the claim, while the defendant's expectation of not being sued strengthens with time. Fourth, judicial resources should be devoted to current matters rather than stale disputes; limitation encourages prompt filing. Fifth, limitation rules affect not only the parties but also the State, manufacturers, service providers, and insurers. Longer periods may affect insurance premiums and the prices of goods and services, and thus broader social welfare.

50. In LCA 6552/20 Bank Discount Ltd. v. A. Levy Investments and Construction Ltd., paras. 20-21 (Nevo, 2 December 2020) (the "Bank Discount case"), four principal situations were identified as guidelines for determining when limitation should be decided:

a. First, where limitation requires no factual inquiry and the defendant is willing to assume the pleaded facts to be true. The issue should preferably be decided at the preliminary stage, even if it entails a complex legal question.

b. Second, where a distinct factual inquiry is required that does not overlap the merits. As a rule, that inquiry should also be conducted at the preliminary stage.

c. Third, where the factual inquiry overlaps fully or partly with the merits. Because the same evidence will have to be examined later, competing considerations may justify departing from the default and avoiding a preliminary limitation determination. The Court nevertheless retains discretion where the overlap is narrow or confined and an early determination would be more efficient.

d. Fourth, where the factual inquiry on the merits may affect limitation but this is uncertain - a potential overlap. If the Court expects that facts emerging during the merits will affect limitation, determination should generally be postponed.

51. The four situations are guidelines. The central consideration is the nature of any factual inquiry needed for limitation - whether and to what extent it can be confined to limitation independently of the merits. That consideration must be applied to the particular circumstances and the purposes of limitation (Bank Discount case, para. 21).

52. Later Supreme Court authority emphasizes that summary disposal without factual inquiry is generally possible only where the parties' dispute is primarily legal [LCA 1504/22 State of Israel, Ministry of Construction and Housing v. Afropim Housing and Development (1991) Ltd., para. 10 (Nevo, 17 March 2022); LCA 28363-05-25 Tidhar Construction Ltd. v. Clal Insurance Co. Ltd., para. 11 (Nevo, 12 June 2025); LCA 27145-03-25 Barel A.B. Engineering and Construction Ltd. v. Bashara, para. 11 (Nevo, 18 August 2025); LCA 70579-04-25 Cohen v. Lev, para. 13 (Nevo, 2 December 2025)].

53. The Respondent argues that the existence of a trust should be examined on the merits rather than at the preliminary stage. That argument must be rejected. The starting point is that every fact pleaded by the Respondent will be fully proved, and the Applicant is willing to assume those facts for purposes of limitation. General assertions or a complex presentation of the pleadings are insufficient to establish a need for factual inquiry; otherwise, every plaintiff could deflect an early limitation application [CA 352/23 Estate of Ofer v. Rinot, para. 51 (Nevo, 14 October 2024); CA (Haifa District) 37227-09-22 Kassis v. State of Israel - Israel Land Authority, para. 15 (Nevo, 17 August 2025)]. The Respondent identified no factual complexity. The dispute is therefore primarily legal.

54. The case falls within the first Bank Discount category. Limitation should be determined now, before the merits, because no factual inquiry is required and the determination rests on the statement of claim. What remains is a straightforward legal question which can and should be decided at this stage in light of the purposes of procedural limitation. As explained below, the claim must be summarily dismissed as time-barred.

55. Section 5(1) of the Limitation Law provides a seven-year limitation period for a non-land claim. Section 6 provides that time begins when the cause of action accrues. The test is whether the plaintiff possesses a "power to sue" - a real possibility of bringing the claim and obtaining the relief sought. In CA 9413/03 Alankwa v. Local Planning and Building Committee, Jerusalem, 62(4) PD 525, 551 (2008), it was held:

> "The accepted test for the existence of a cause of action for limitation first requires the elements necessary to constitute the cause under substantive law. For limitation purposes, however, additional facts may be required as preconditions to the litigant's practical ability to approach the court and exercise the right of action. Together, the substantive elements and those additional facts create the plaintiff's 'power to sue', upon whose creation the limitation period begins. Such power means a real possibility of filing a claim and obtaining the requested relief, provided the plaintiff satisfies the factual and legal burdens." [Emphasis added.]
>
> The Court continued at p. 552: "A conceptual right of action is therefore insufficient. There must be a power to sue demonstrating that the plaintiff's right to approach the court and obtain relief has matured." [Emphasis added.]

56. These proceedings were commenced in November 2023. According to the statement of claim, the Respondent transferred the Funds to the Applicant in late 2009, whether characterized as an investment, as the Applicant argues, or as Funds transferred in trust, as the Respondent pleads (for example, paragraph 5 states that the Respondent "regarded [the Applicant] as his trustee and acting for him").

57. The limitation period for a claim against a trustee does not begin while the trustee neither denies the trust nor breaches the fiduciary duty [CA 7231/10 Talmud Torah Beit Yehuda Kiryat Ata v. Municipality of Kiryat Ata (Nevo, 17 October 2012) (the "Talmud Torah case"); CA 1533/08 Lachman v. Adv. Harari (27 August 2012)]. Regarding delayed discovery of a trustee's breaches, it has been held that, absent contrary information, a beneficiary may assume that the trustee is performing the duty [CA 3322/95 Gamzu v. Goshen, 50(4) PD 520, 526 (1997); LCA 4705/22 Eliyahu v. Israel-Por, para. 19 (Nevo, 29 September 2022); CA 9143/18 Nahalat Yehuda Ltd. v. Budsky, para. 8 (Nevo, 28 July 2020)].

58. Justice Gontovnik has observed that trust relationships require special consideration under limitation law, principally where a continuing connection remains between the trustee and the asset or the beneficiary's rights, so that "the beneficiary may assume that the trust is being properly administered, or indeed that a trust relationship continues to exist" [CA (Tel Aviv District) 31544-04-18 Weinberg v. Segal, para. 36 (Nevo, 31 August 2021); appeal dismissed on the Supreme Court's recommendation in CA 7783/21 Weinberg v. Segal (Nevo, 5 June 2023)].

59. A central factor in determining when time begins is the beneficiary's knowledge. Generally, the beneficiary relies on the trustee to administer the assets faithfully; the trustee's possession is not adverse. Until the beneficiary learns of a breach or denial of the trust, time is suspended. This specifically applies the delayed-discovery rule in section 8 of the Limitation Law: where facts constituting the cause of action were unknown for reasons beyond the plaintiff's control and could not have been prevented with reasonable diligence, time begins when those facts become known. The party relying on section 8 bears the burden of proof [Atomic Energy Commission case, p. 117].

60. Accordingly, in a trustee-beneficiary relationship, time starts when the trustee breaches the duty or denies the trust [Talmud Torah case]. A beneficiary is not expected to suspect that the trustee is failing to perform. Until the beneficiary knows of the breach or denial, time is suspended.

61. The test is not whether the trustee notified the beneficiary of the breach or denial, but whether the beneficiary learned of it. No positive notification is required. Conduct appearing to repudiate the constructive trust, once brought to the beneficiary's knowledge, is sufficient. Where the beneficiary has actual knowledge, it cannot sensibly be ignored merely because the trustee did not expressly announce the repudiation [Talmud Torah case].

62. The question is therefore whether the Applicant - the alleged trustee - identified a point at which the Respondent had information contradicting the presumption that the Applicant was performing his duties or was not denying the trust, assuming a trust is proved. The statement of claim must be examined to determine whether the Respondent knew earlier of the breaches and wrongs now attributed to the Applicant. In my view, the answer is yes.

63. The Respondent himself argues (paragraph 17 of his response) that limitation in a trustee-beneficiary relationship begins only when the trustee denies the trust to the beneficiary. He says that this occurred "only recently", when the Applicant pleaded repayment of the Funds and allegedly referred at the hearing to a EUR 300,000 balance. I cannot accept that argument.

64. Even assuming every allegation in the statement of claim is correct and that the Applicant held the Funds as trustee, the pleaded chronology shows that the Respondent at least suspected repudiation by the end of February 2010. At that time, the promised profits had not been paid and, on the Respondent's own case, he demanded the return of the Funds and took various steps to recover them. That is when the alleged trustee breached or, at minimum, denied the trust.

65. The same follows from the alleged April 2010 meeting in Eilat, at which the Applicant supposedly undertook to return the EUR 2,600,000 principal. It occurred against the background of unpaid promised profits. Contemporaneous correspondence beginning in May 2010 includes the Respondent's email of 20 May 2010: "Send immediately or pay in cash the amount [...] EUR 1,684,000, because you are about to create an irreversible situation [...] You are a liar, a thief, a fraud - but it will not work with me. You will not be able to escape the reality of our adventure" (Appendix 2, p. 46; paragraphs 4-6 of the Applicant's submissions).

66. At the latest, May 2010 was therefore the date on which the Applicant denied the trust or breached his alleged duties, to the Respondent's knowledge, prompting steps to secure the asserted rights. The cause of action and the Respondent's "power to sue" arose then. On the Respondent's own case, he knew as beneficiary that the relationship had ended when the Funds were not returned, or at least that the Applicant had breached his duties. There is no reason not to begin the limitation period at that point.

67. This conclusion is reinforced by the Respondent's own testimony at the first pre-trial hearing. After being duly cautioned, he candidly described how he viewed events at the time. He said that the Applicant proposed an investment in energy and tradable carbon allowances (transcript of 11 February 2025, p. 7, ll. 10-12):

> "I asked him what the business was. He told me he had bought a company listed on the London Stock Exchange for EUR 20 million. I asked what the company did. He said we wanted to trade gas and electricity; you buy electricity and gas and make a profit."

68. He continued that the Applicant promised there was no risk of losing the principal (p. 7, ll. 20-26):

> "He said: you put in money and become a partner in the business and the profits; you cannot lose money. He did not promise merely to buy shares, but more. He said I could not lose the principal, the capital, because we lock it in a bank account so the bank gives us more. These were not shares. In the business we were doing, we wanted to steal the State's VAT. That is the truth. So you cannot lose. There is nothing to lose. You make 20% on every deal. I am sorry that I wanted to steal. I asked whether we could lose the principal and he said no. Could we fail to make money? He said yes - only if the State removes VAT from the business."

69. According to the Respondent, several months after transferring the Funds he understood that "there was a problem" (p. 8, ll. 21-29):

> "I was in the street in December 2009 and asked for Pascal. I spoke to him: what is happening, is everything all right? Pascal, you told me it would start in another three or four weeks and that after three or four months we would have lots of money in our pockets. Two months have passed and we have done nothing. He asked me to give him two more months. I said no problem, because the UK Government had to provide a server to make the transfer. He spoke about many papers and many servers. Papers I understand; I am not a liar. Three minutes later I spoke to Dan and told him we were now in the middle of the sea and there was a problem with Pascal. For me it was not a big problem because the man was clean. I began to understand that there was a problem."

70. As to what occurred after he understood there was a problem, the Respondent testified about the pressure on him and his father (p. 9, ll. 23-33):

> "He told me: I have good news, Stefan. I am now in Eilat. In ten days I will return to Tel Aviv and, as soon as I reach my Tel Aviv office, I will return your principal. I asked whether there was a business. He said of course there was, and that I was a 13% partner. I thanked him and went to Miami on holiday. Ten days or two weeks later he returned to Tel Aviv with Dan. I asked Dan whether Pascal had made the transfer; he had not. I spoke to Pascal and told him Dan said he had not transferred it. He asked me to give him until tomorrow because he had arrived that day. The next day I called and asked if he had sent the money. He made noises with his mouth and said he had no money. I asked how he could have no money and pressured him: you must bring me my money; you must, must, must [...]. My father was under pressure. Five or six friends had put in money. He asked what to do. I told him to go to Pascal's house and speak face to face."

71. The Respondent then testified that in May 2010 he understood that the Investment had failed and that the Applicant had "screwed me", "stolen from me", and "lied to me" (p. 10, ll. 6-14):

> "I knew the company he bought was in Jerusalem with an office in London. I told my father to go to the Jerusalem office of the company he said he had bought for EUR 20 million. My father arrived and saw a man named Didier. I spoke by telephone with my father and Didier. Didier said: excuse me, I came without an appointment. I said I had given Pascal money because he bought your company. He said: are you joking? Not at all. He bought 7% for EUR 1.6 million. I asked whether he was joking - had Pascal not bought a EUR 20 million company? This was in May 2010. He said: Stefan, I do not know you, but I see that you are not joking. He did not buy half of ten million, did he? Not EUR 2.6 million? Then he screwed me. He stole from me and lied to me."
>
> "While I was in the Jerusalem office, I understood that he had screwed me. Even if there is limitation, he screwed me - why did he want other people's money? What did I do to him?"

72. The Respondent's testimony therefore presents a clear and coherent picture. In May 2010, when the Investment failed to progress as expected, he understood that recovering the Funds would be difficult and that the Applicant had, in his words, "screwed", "stolen from", and "lied to" him. He then began pressuring the Applicant to return the Funds.

73. Even if, as pleaded, the Respondent regarded the Applicant as a trustee, once he understood in May 2010 that the trustee had "stolen from him", that was the date of breach of fiduciary duty. The seven-year period began then, and the claim became time-barred no later than May 2017. There is no substance to the assertion that denial occurred only recently when the defence pleaded repayment or when a EUR 300,000 balance was allegedly mentioned at the pre-trial hearing.

74. The Respondent alternatively invokes section 9 of the Limitation Law, asserting that the Applicant acknowledged the Respondent's right and thereby restarted time. The statement of claim alleges repeated written and oral admissions that the Funds were received and that a balance remained unpaid, relying on correspondence and materials, some apparently between the Applicant and his lawyer, dated 2010-2011 (paragraphs 39-47 and appendices D-F). The Respondent repeated the argument in his response, but raised it only generally in his written submissions and appears largely to have abandoned it.

75. In any event, even assuming the argument has merit, the alleged acknowledgments "throughout the years" are dated, on the Respondent's own documents, no later than 2011: transcripts and translations from the 2011 French criminal proceedings and translations relating to statements by the Applicant's lawyer. Even if these were acknowledgments - a matter I do not determine - the claim expired in 2018.

76. The Applicant's counsel's letter of 21 June 2022 does not acknowledge the Respondent's right so as to restart time under section 9. It merely requests particulars of a terse and unparticularized demand: to whom the sum was given, in what transaction, when the sum arose, and the breakdown of the sums allegedly paid.

77. Nor does the statement of defence admit any debt. At most, it alleges that the sums transferred were an investment which, by nature, carried prospects and risks. That is not an admission of indebtedness. Even if an acknowledgment could be identified, it was accompanied by a limitation defence within the meaning of section 9, which is itself sufficient to reject the argument that time restarted.

78. Contrary to the Respondent's argument, the Applicant's testimony before me contained no admission of any debt, in any amount or at all; rather the opposite [transcript of 12 February 2026, p. 5, ll. 11-13; p. 9, l. 20; p. 12, l. 37]. Throughout these proceedings, the Applicant repeatedly denied both the existence of a trust and any debt.

79. The same applies to the Threatening Harassment Case commenced by the Applicant on 28 January 2024 [MC (Netanya Magistrates' Court) 63730-01-24]. In his application for an order preventing threatening harassment, he stated that he "does not owe the Respondent anything whatsoever" and asserted that the present action was time-barred. The section 9 argument must therefore be rejected.

80. The Respondent next argues that the French criminal proceedings and the prohibition on contacting the Applicant prevented an earlier action. He says that, under section 14 of the Limitation Law, this impediment suspended time. For the reasons below, the argument must be rejected in all respects.

81. First, the Respondent argues that imprisonment in France created a "substantial difficulty" in conducting the action. He relies on LCA 2399/21 Anonymous v. Anonymous (Nevo, 29 July 2021) (the "Anonymous case"). That case concerned damages for personal injury, a category having unique characteristics which generally create an inherent "substantial difficulty" when the injured plaintiff is imprisoned abroad (paras. 26-27):

> "Conducting any civil action while the plaintiff or defendant is imprisoned abroad may create various difficulties. Whether those difficulties generally reach the 'substantial difficulty' required to suspend limitation under section 14 is, however, difficult and complex. The doubt arises, among other matters, from technological and normative developments that now permit participation in legal proceedings and remote examination of witnesses, including by video conference; through an agent; and by other means."

> "In any event, I need not decide that issue here. The action underlying this application for leave to appeal is a personal-injury action. Such an action has unique characteristics which generally create an inherent 'substantial difficulty' in proper conduct when the injured plaintiff is imprisoned in a foreign country, even having regard to the technological developments described above."

82. The Anonymous case concerned personal injury and is fundamentally different from this monetary action. The Respondent identified no difficulty, still less a substantial one, in conducting or at least filing this claim within time through his lawyers. Imprisonment in France does not, by itself, necessarily constitute a substantial reason suspending limitation.

83. Even if time were suspended during the Respondent's imprisonment - which I do not accept - he states that he entered prison in December 2018 and completed his sentence in October 2019, a period of less than one year. Since time began in May 2010, the claim had already expired in May 2017, before imprisonment began.

84. Second, the Respondent alleges that from 2010 until October 2022 he was prohibited from contacting the Applicant on pain of activation of the suspended sentence, so that time should run only from then. He relies on an affidavit by French lawyer Jean-Gilles Halimi stating that the Respondent was prohibited from contacting the Applicant "in any manner" from 2010 until September 2022. Again, this is not a foreign-law expert opinion prepared in accordance with the rules of evidence, but apparently an affidavit translated into Hebrew.

85. Even if it were a foreign-law opinion and admissible evidence, it does not establish that French law prohibited the Respondent from commencing civil proceedings or pursuing any existing rights and causes of action in France or elsewhere. Foreign law is a fact to be proved by the party relying upon it. The Respondent did not discharge that burden.

86. The argument is also inconsistent with the rule in Israel that a no-contact order does not deprive a person of access to the courts. Filing a civil claim, even against the protected person, is not a violation of the order but an exercise of the fundamental right of access to justice. An order preventing threatening harassment is intended to prevent harassment or unwanted contact, not the pursuit of lawful proceedings. The decision concluding the parties' threatening-harassment proceeding stated: "It is understood that, in legal proceedings, the lawyers representing the parties will communicate concerning the parties' affairs" (transcript of 7 February 2024, p. 3, l. 10).

87. Finally, the Respondent's assertion that French criminal law prohibited him from approaching the Applicant and therefore suspended limitation is an alternative factual case, or at least one inconsistent with his trust case. Under the latter, the trustee's denial allegedly occurred only "recently" and "now" - in the defence or at the pre-trial hearing - and time should run from that point.

88. If the Applicant's denial or breach became known only recently, the earlier no-contact restriction is irrelevant. It ended in October 2022, during a period when, on the Respondent's own case, he did not know the facts said to constitute the Applicant's breach or denial - facts allegedly learned only after this action was filed in November 2023. The two factual cases are alternative, and at least contradictory, and cannot coexist.

89. Contradictory factual positions, whether in the same proceeding or different proceedings, give rise to judicial estoppel [regulation 27; LCA 4224/04 Beit Sasson Ltd. v. Shikun Ovdim Investments Ltd., 59(6) PD 625, 633 (2005): "Judicial estoppel may arise where a party advances contradictory factual or legal arguments in the same proceeding or in two different proceedings" (emphasis added); Family Appeal (Tel Aviv District) 42530-11-23 Adv. Eyal Bar-Lev v. A.L., para. E(9) (Nevo, 24 April 2024); Issachar Rosen-Zvi, Civil Procedure 256 (2015): "The function of judicial estoppel is to prevent a litigant from 'playing' with the courts as though they were his private playground."] The circumstances justify applying judicial estoppel to the Respondent's differing factual versions in this proceeding.

90. I find no merit in the Respondent's remaining arguments, including his general reference to the proposed Civil Law Bill, which was not enacted and is not the law applicable here. They are rejected.

[redacted]

Conclusion

91. For all the foregoing reasons, the claim is dismissed as time-barred.

92. Having regard to the work required of the Applicant in conducting his defence, including pleadings, interlocutory applications, attendance at the pre-trial hearing and at the evidentiary hearing on this application, and written submissions, and having reviewed the evidence of costs appended to the Applicant's reply submissions, I order the Respondent to pay the Applicant's costs in the amount of **NIS 50,000**. The amount shall bear statutory shekel interest from today until actual payment.

The Registry shall serve a copy of this decision on counsel for the parties and close the case.

Given today, 1 Nisan 5786, 19 March 2026, in the absence of the parties.

Michal Amit-Anisman, Judge