

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]
represented by [REDACTED]

**in re Accounts of Mme Henriette Wallach
(Power of Attorney Holder Léo Wallach)^{1, 2}**

Claim Numbers: 220850/AV; 220851/AV³

This Certified Denial is based on the claims of [REDACTED] (“the Claimant”) to accounts of Léo Wallach, *Wallach & Chomsky*, and Nahum (Nuchem, Naum, or Nachke) Wajnberg (Veinberg, Vainberg, Wainberg, or Hachnoch). The CRT did not locate an account belonging to *Wallach & Chomsky* or to Nahum (Nuchem, Naum, or Nachke) Wajnberg (Veinberg, Vainberg, Wainberg, or Hachnoch) 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”). This Denial is to the published accounts of Henriette Wallach (the “Account Owner”) at the [REDACTED] (the “Bank”).

All denials 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.

¹ 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”), Léo Wallach is indicated as owning two accounts and holding power of attorney over three accounts that were owned by *Mme* (“Mrs.”) Henriette Wallach. Upon careful review, the CRT has concluded that the relevant bank records evidence that Léo Wallach did not own an account, but only held power of attorney over three accounts held by *Mme* (“Mrs.”) Henriette Wallach.

² In an effort to locate any and all accounts that might have belonged to the Claimant’s relative, the CRT has reviewed and analyzed all accounts whose owners’ or power of attorney holders’ names are substantially similar to that of the Claimant’s relative, even if the Claimant did not specifically claim that particular account, and even if the Claimant could not identify the owner of the account as his relative.

³ According to Article 37 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 two claims of the Claimant in one proceeding.

Information Provided by the Claimant

The Claimant submitted a Claim Form asserting that his father, Leo Wallach, who was born to [REDACTED] and [REDACTED], née [REDACTED], on 29 December 1883 in Bialystock, Poland, and was married to [REDACTED], née [REDACTED], in 1909 in Bialystock, owned a Swiss bank account. The Claimant indicated that his father, who was Jewish, was a businessman and a supplier to the Polish Army. The Claimant stated that his father owned several houses, in Bialystock; Orly, Poland; and Zambrow, Poland. The Claimant further stated that his father was interned in the Bialystock ghetto in 1941, and that he perished there on 8 February 1943. The Claimant indicated that he was born on 20 October 1912 in Bialystock.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Leo Wallach. The auditors who carried out the ICEP Investigation reported three accounts whose power of attorney holder's name matches that provided by the Claimant. Each account is identified below by its Account Identification Number, which is a number assigned to the account by the ICEP auditors for tracking purposes.

Accounts 5025581, 5034893, and 5034895

The Bank's records indicate that the Account Owner was *Mme* ("Mrs.") Henriette Wallach, and that the Power of Attorney Holder was Léo Wallach. The Bank's records further indicate the Account Owner's city and country of residence, and the Power of Attorney Holder's city and country of residence. In addition, the Bank's records indicate the name of the Power of Attorney Holder's mother. Finally, the Bank's records indicate the Power of Attorney Holder's relationship to the Account Owner, and contain the signatures of the Account Owner and the Power of Attorney Holder.

The CRT's Analysis

Admissibility of the Claim

The CRT has determined that the claims are admissible according to Article 18 of the Rules.

Identification of the Power of Attorney Holder

The CRT concludes that the Claimant has not identified the Power of Attorney Holder as his relative. Although the name of his father matches the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant identified his father's mother as [REDACTED], née [REDACTED]. In contrast, the Bank's records show that the Power of Attorney Holder's mother was a different person. Moreover, the Claimant stated that his father lived in Bialystock, Poland. In contrast, the Bank's

records show that the Power of Attorney Holder resided in a different country, to which the Claimant established no connection. In addition, the CRT notes that the Claimant did not identify the Account Owner, even though she appears to be related to the Power of Attorney Holder. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's father are the same person.

The CRT also notes that under Swiss law, a power of attorney holder is not considered to be the owner of an account. After a power of attorney holder dies, his or her powers in an account cease to exist, and thus do not pass to his or her heirs. Therefore, even if the Claimant had identified the power of attorney holder, but not the account owner, as his relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the power of attorney holder and the account owner were related.

Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant/s may appeal this Denial to the Court through the Special Masters within ninety (90) days of the date of the letter accompanying this decision. Appeals should be delivered to the following address: Office of Special Master Michael Bradfield, 51 Louisiana Ave., NW, Washington, DC 20001 USA.

The Claimant should send appeals in writing to the above address and should include all reasons for the appeal. If more than one account has been denied in this Certified Denial, the Claimant should identify the Account Identification Number that forms the basis of the appeal. Appeals submitted without either a plausible suggestion of error or relevant new evidence may be summarily denied.

Scope of the Denial

The Claimant should be aware that the CRT will carry out further research on his claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
10 August 2005