

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to Claimant [REDACTED]  
represented by [REDACTED]

## **in re Account of Leo Bernstein**

Claim Number: 601494/LV<sup>1, 2</sup>

This Certified Denial is based on the claim of [REDACTED], née [REDACTED] ([REDACTED]), (the “Claimant”) to an account opened by Leo Bernstein on behalf of Jacob (Jankelis, Yankelis, Yakob) Volpe (Wolpe). This Denial is to the published account of Leo Bernstein (the “Account Owner”) at the [REDACTED] (the “Bank”).<sup>3</sup>

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.

## **Information Provided by the Claimant**

The Claimant submitted a claim to the Holocaust Claims Processing Office (“HCPO”) asserting that her father, Jacob (Jankelis, Yankelis, Yakob) Volpe (Wolpe), who was born on 12 August 1888 in Datnova, Lithuania, and was married to [REDACTED], née [REDACTED], owned a Swiss bank account. The Claimant stated that the account also may have been held under the names of various people and businesses, including her father’s relatives: Shaina (Shana, Sheina, Sheine) Volpe (Wolpe), Masha Volpe (Wolpe), Elisha Volpe (Wolpe), or Perl Volpe (Wolpe); her father’s businesses: *Semlin Produktas*, *Semlin* (a stock company), or *Jankelis Volpe* (a flax processing factory); and her father’s business partners: Shabtai (Shabsei) Kantor or Leo Bernstein, who both resided in New York, New York, the United States after 1939. The Claimant stated that her father, who was Jewish, resided in Kaunas, Lithuania, and owned the

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<sup>1</sup> The Claimant submitted a claim, numbered B-00679, on 26 January 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601494.

<sup>2</sup> The Claimant submitted an additional claim to the account of Jacob (Yankelis, Jankelis, Yakob) Volpe (Wolpe), which is registered under the Claim Number 214979. The CRT will treat the claim to this account in a separate determination.

<sup>3</sup> In this claim, the Claimant also claimed the accounts of Jacob (Yankelis, Jankelis, Yakob) Volpe (Wolpe), Shaina Volpe (Wolpe), Masha Volpe (Wolpe), Elisha Volpe (Wolpe), Perl Volpe (Wolpe), *Semlin Produktas*, *Semlin Stock Company*, *Jankelis Volpe Flax and Tow Processing Factory*; and Shabtai (Shabsei) Kantor. The CRT will treat the claims to these accounts in a separate determination.

three aforementioned companies, which were located in Šiauliai, Lithuania. The Claimant further stated that her parents were forced to live in the Kovno ghetto, and that they were deported to Dachau, where they were murdered. The Claimant indicated that two of her siblings also perished in the Holocaust. The Claimant indicated that she was born on 20 November 1923 in Kaunas.

The Claimant previously submitted Initial Questionnaires with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by herself and one account owned by Jacob (Jankelis) Wolpe (Volpe).<sup>4</sup>

In support of her claim the Claimant submitted a declaration issued by the Lithuanian Consulate General in New York, confirming the existence of the three aforementioned companies owned by her father.

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

The CRT notes that the Claimant submitted a claim to an account belonging to her father, held under the name of his business partner, Leo Bernstein. The auditors who carried out the investigation to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") reported one account whose owner's name matches one of the names provided by the Claimant. The account is identified below by its Account Identification Number, which is a number assigned to the account by the ICEP auditors for tracking purposes.

#### Account 5026581

The Bank's records indicate that the Account Owner was Leo Bernstein, who resided in Breslau, Germany, and that the power of attorney holders were Ida Bernstein and Martin Bernstein. The Bank's records also indicate the Account Owner's street address and relationship to the power of attorney holders, power of attorney holder Ida Bernstein's alternative name and power of attorney holder Martin Bernstein's professional title. Furthermore, the Bank's documents indicate the date of opening of the account at issue and the date upon which the power of attorney was granted. Finally, the Bank's records contain the Account Owner's and the power of attorney holders' signatures.

### **The CRT's Analysis**

#### Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules").

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<sup>4</sup> As noted above, the CRT will treat the claims to the accounts of Masha Volpe (Wolpe) and Jacob (Yankelis, Jankelis, Yakob) Volpe (Wolpe) in separate determinations.

### Identification of the Account Owner

The CRT concludes that the Claimant has not identified the Account Owner as her father's business partner. Although the name of her father's business partner matches the published name of the Account Owner, the information provided by the Claimant differs materially from the published information about the Account Owner available in the Bank's records. Specifically, the Claimant stated that her father's business partner resided in New York after 1939. The Claimant also stated that her father resided in Lithuania. In contrast, the Bank's records show that the Account Owner resided in Breslau, Germany. Furthermore, the CRT notes that the Claimant failed to identify the power of attorney holders, who were related to the Account Owner. Consequently, the CRT is unable to conclude that the Account Owner and the Claimant's father's business partner are the same person.

In addition, the CRT notes that the Claimant did not identify the Account Owner as her relative. Rather, the Claimant asserted that the Account Owner was her father's business partner, and that he opened the account on behalf of her father. The CRT notes that even if the Claimant had identified the Account Owner as her father's business partner, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the account was opened on behalf of the Claimant's father.

### Right of Appeal

Pursuant to Article 30 of the Rules, the Claimant 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 which 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 her claim 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  
31 October 2005