

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to Claimant [REDACTED]

**Claimed Account Owners: Karl Berger, David Berger and Erna Fleischer<sup>1</sup>**

Claim Numbers: 203952/SB; 401532/SB

This determination is based on the claim of [REDACTED] (the “Claimant”) to a Swiss bank account potentially owned by Karl Berger, David Berger and Erna Fleischer. The CRT did not locate an account belonging to David Berger 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 Certified Denial is to a Swiss bank account potentially owned by the Claimant’s relatives, Karl (Carl) Berger and Erna Berger, née Fleischer, (the “Claimed Account Owners”).

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 stating that Karl Berger and Erna Fleischer, who were married, were Jewish and resided in Romania.

### **The CRT’s Investigation**

The CRT matched the name of Karl (Carl) Berger and Erna Berger, née Fleischer, to the names of all account owners, and power of attorney holders, in the Account History Database and identified accounts belonging to individuals whose names match, or are substantially similar to, the name of the Claimed Account Owners. In doing so, the CRT used advanced name matching systems and computer programs, and considered variations of names, including name variations provided by Yad Vashem, The Holocaust Martyrs’ and Heroes’ Remembrance Authority, in

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<sup>1</sup> The Claimant should note that this determination relates only to the Claim Number and Claimed Account Owners stated above, and that the CRT is aware that the Claimant may have submitted other claims.

Jerusalem, Israel, to ensure that all possible name matches were identified. However, a close review of the relevant bank records indicated that the information contained therein was inconsistent with the information the Claimant provided regarding the Claimed Account Owners. Accordingly, the CRT was unable to conclude that any of these accounts belonged to the Claimed Account Owners.

## **The CRT's Analysis**

### Identification of the Account Owners

The list below contains names of account owners, and power of attorney holders, that match the names of the Claimed Account Owners and the reasons why the CRT has concluded that the Claimed Account Owners and an account owner, or power of attorney holder, are not the same person. If an account owner's place of residence was published, that place of residence is also listed.

*Name: Carl Berger*

*Account Identification Numbers: 5024890 and 5029792*

*Specifically, the Claimant stated that her relative, Karl Berger, resided in Romania. In contrast, the records show that the account owner resided in a different country.*

*Name: Carl Berger*

*Account Identification Number: 5029356*

*Specifically, the Claimant stated that her relative, Karl Berger, resided in Romania. In contrast, the records show that the power of attorney holder resided in a different country. In addition, the CRT notes that the Claimant did not identify the account owner, and 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 no longer exist, and they 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 their 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.*

*Name: Erna Fleischer*

*Account Identification Number: 6001642*

*Specifically, the Claimant stated that her relative, Erna Fleischer, resided in Romania. In contrast, the records show that the account owner resided in a different country.*

*Name: Erna Berger*

*Account Identification Number: 5029562*

*Specifically, the Claimant stated that her relative, Erna Berger, resided in Romania. In contrast, the records show that the power of attorney holder resided in a different country. In addition, the CRT notes that the Claimant did not identify the account owner, and 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 no longer exist, and they 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 their 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.*

*Name: Erna Berger*

*Account Identification Number: 5024197*

*Specifically, the Claimant stated that her relative, Erna Berger, was married to Karl Berger. In contrast, the records show that the power of attorney holder was married to a different person. In addition, the CRT notes that the Claimant did not identify the account owner, and 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 no longer exist, and they 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 their 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.*

The Claimant should note that all accounts awarded by the CRT are published upon release on the CRT's website at [www.crt-ii.org](http://www.crt-ii.org).

#### Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the Claimant may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimant should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

#### **Scope of the Denial**

The CRT now considers the Claimant's claim to the accounts of Karl Berger, David Berger and Erna Fleischer closed. Please note that this decision applies only to the Claim Number and Claimed Account Owners identified herein, and that the CRT is aware that the Claimant may

have claimed accounts held by other persons or entities both in the Claim Number specified above and in other claims submitted to the CRT.

**Certification of the Denial**

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal  
27 February 2007