

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Denial**

to Claimant [REDACTED]

**in re Account of Josef Berliner  
(Power of Attorney Holder Max Schlesinger)<sup>1</sup>  
and  
Accounts of Klara Berliner  
(Power of Attorney Holder Max Schlesinger)**

Claim Number: 600064/SB<sup>2</sup>

This Certified Denial is based on the claim of [REDACTED] (the “Claimant”) to the accounts of Maks Schlesinger.<sup>3</sup> This Denial is to the published accounts of Josef Berliner (“Account Owner 1”) and Klara Berliner (“Account Owner 2”) (together the “Account Owners”), over which Max Schlesinger (the “Power of Attorney Holder”) held a power of attorney, at the [REDACTED] (the “Bank”).<sup>4</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 his uncle, Maks Schlesinger, who was born in Austro-Hungary, and was married to [REDACTED], owned a Swiss bank account. The Claimant stated that his uncle, who was Jewish, resided in Zagreb, Yugoslavia, where he owned a wholesale store. The Claimant further

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<sup>1</sup> 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 the same as that of the Claimant’s relative, even if the Claimant could not identify the owner of the account as his relative.

<sup>2</sup> The Claimant submitted a claim, numbered B-01295, on 28 September 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 600064.

<sup>3</sup> The CRT did not locate an account belonging to Maks Schlesinger, 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”).

<sup>4</sup> In this claim, the Claimant also claimed the account of Bernhard (Bernhardt) Lederer. The CRT will treat the claim to this account in a separate determination.

stated that his uncle was deported to Jasenovac concentration camp in Croatia, where he perished sometime during the Second World War. The Claimant indicated that he was born on 1 January 1930 in Zagreb.

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

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Maks Schlesinger. 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 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.

#### Account 5026471, 5033276 and 5033277

The Bank's records indicate that the Account Owners were Josef Berliner and Klara Berliner, who resided in Hannover, Germany, and that the Power of Attorney Holder was Max Schlesinger. The Bank's records also indicate the Power of Attorney Holder's city and country of residence, street address, title and profession. Finally, the Bank's records contain the Account Owners' and the Power of Attorney Holder's 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").

#### Identification of the Account Owners and 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 uncle is substantially similar to 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 stated that his uncle resided in Zagreb, Yugoslavia and was the owner of a wholesale store. In contrast, the Bank's records show that the Power of Attorney Holder resided in a different country and had a different occupation and profession. In addition, the CRT notes that the Claimant did not identify the Power of Attorney Holder's title. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's uncle are the same person. Moreover, it should be noted that the CRT has awarded the accounts to other claimants, who plausibly identified the Account Owners as their relatives. All decisions are published upon release on the CRT's website at [www.crt-ii.org](http://www.crt-ii.org).

In addition, the CRT notes that the Claimant did not identify the Account Owners as his relatives, 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 Owners, as his relatives, 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 Owners were related.

### 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 his 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  
30 September 2005