

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]
represented by Dr. [REDACTED]

**in re Account of *Carl Persch G.m.b.H.*
(Power of Attorney Holders Oskar Ebenspanger, Otto Ebenspanger, and Marie Luise Mikolas-Ebenspanger)¹**

Claim Number: 213479/CN²

This Certified Denial is based on the claim of [REDACTED] (the “Claimant”) to the unpublished account of Oskar Ebenspanger. This Denial is to the published account of *Carl Persch G.m.b.H.* (the “Account Owner”), over which Oskar Ebenspanger (“Power of Attorney Holder Oskar Ebenspanger”), Otto Ebenspanger (“Power of Attorney Holder Otto Ebenspanger”), and Marie Luise Mikolas-Ebenspanger (“Power of Attorney Holder Marie Mikolas-Ebenspanger”) (together the “Power of Attorney Holders”) held power of attorney, at the [REDACTED] (the “Bank”).^{3,4}

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 Form, identifying Power of Attorney Holder Oskar Ebenspanger as his uncle Oskar Ebenspanger, who was born on 28 May 1897 in Ljubljana, Austria-Hungary (later Yugoslavia, now Slovenia), and was married to his maternal aunt, [REDACTED], née [REDACTED] (the sister of the Claimant’s mother, [REDACTED], née

¹ In an effort to locate any and all accounts that might have belonged to the Claimant’s relatives, the CRT has reviewed and analyzed all accounts whose owners’ or power of attorney holders’ names are the same as those of the Claimant’s relatives, even if the Claimant could not identify the owner of the account as his relative.

² The Claimant submitted an Initial Questionnaire to the Court in 1999 and a Claim Form to the CRT. The CRT is treating the Initial Questionnaire and the Claim Form under the consolidated Claim Number 213479.

³ In a separate decision, the CRT awarded the account of Maria Luise Ebenspanger to the Claimant. See *In re Account of Maria Luise Ebenspanger* (approved on 23 June 2006).

⁴ The CRT did not locate an account belonging to Oskar Ebenspanger 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”).

[REDACTED]), on 8 August 1908 in Liberec, Austria-Hungary (now the Czech Republic). The Claimant further identified Power of Attorney Holder Marie Mikolas-Ebenspanger as their daughter (the Claimant's cousin), Marija Luiza Mikolas, née Ebenspanger, who was born on 18 August 1910 in Ljubljana, and indicated that his uncle was a merchant in Ljubljana who was involved in the import-export business. Additionally, the Claimant indicated that his aunt, uncle, and cousin, who were Jewish, resided in Ljubljana until Yugoslavia was invaded by Nazi Germany in 1941. The Claimant indicated that his uncle was then deported to Mauthausen, where he perished. The Claimant indicated that his cousin died in 1961, and that his aunt died in 1972, both in Ljubljana. The Claimant indicated that he was born on 9 October 1921 in Linz, Austria.

On 3 April 2006, the CRT contacted the Claimant to obtain additional information about his relatives. The Claimant stated that Oskar Ebenspanger owned an import/export business in Ljubljana that it was involved with food and produce, but that he did not know the business' name. The Claimant said that his uncle may have traveled to Germany on business. The Claimant also explained that Maria Luisa Ebanspanger held a doctorate in chemistry and worked as a chemist. According to the Claimant, Maria Luisa Ebanspanger's husband was also a chemist, and he worked for a firm or company whose name the Claimant could not remember. The Claimant stated that her husband may have had business connections in Germany.

The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by Oskar Ebenspanger.

The Claimant submitted documents in support of his claim, including copies of: (1) a letter from the Austrian Interior Ministry, indicating that Oskar Ebenspanger was Jewish, that he was from Ljubljana, and that he was a prisoner in Mauthausen, where he died on 18 March 1945; and (2) a letter from the Austrian Consulate in Ljubljana, indicating that Oskar Ebenspanger and [REDACTED], née [REDACTED], who resided in Ljubljana, where married on 8 August 1908.

Information Available in the Bank's Records

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Oskar Ebenspanger. 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 with a power of attorney holder whose name matches that 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 5029244

The Bank's records indicate that the Account Owner was the company *Carl Persch G.m.b.H.*, which was located in Glauchau, Germany, and that the Power of Attorney Holders were Oskar Ebenspanger, Otto Ebenspanger, and Marie Luise Mikolas-Ebenspanger.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account (“Voluntary Assistance”). The Bank provided the CRT with additional documents. These documents indicate that the Power of Attorney Holder Oskar Ebenspanger and Power of Attorney Holder Marie Mikolas-Ebenspanger were domiciled in Ljubljana. Finally, the Bank’s records contain signature samples for Power of Attorney Holder Oskar Ebenspanger and Power of Attorney Holder Marie Mikolas-Ebenspanger.⁵

The CRT’s Analysis

Admissibility of the Claim

The CRT has determined that the claim is admissible according to Article 18 of the Rules.

Identification of the Power of Attorney Holders

The Claimant has plausibly identified two of the Power of Attorney Holders. The Claimant’s uncle’s and cousin’s names match the published names of Power of Attorney Holder Oskar Ebenspanger and Power of Attorney Holder Marie Mikolas-Ebenspanger, who held power of attorney over the published account belonging to the Account Owner. The Claimant identified these two individuals’ domicile, which matches unpublished information contained in the Bank’s records.

The Claimant’s Entitlement to the Account

The CRT notes that the Claimant did not identify the Account Owner, and that there is no indication in the Bank’s records or in information provided by the Claimant that the Power of Attorney Holders owned part or all of the Account Owner. The CRT further 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 no longer exist, and they do not pass to his or her heirs. Because there is no evidence to show that the Power of Attorney Holders had ownership interests in the Account Owner, the CRT concludes that the Claimant is not entitled to the account.

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

⁵ See *In re Account of Maria Luise Ebenspange*.

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
20 October 2006