

Federal Prosecutor: Andreas Müller  
Legal Assistant: Stefanie Heinrich  
Secretariat: Saïd Boudjerima  
Case number: SV.15.0101-MUA  
**Berne, February 3, 2015**

[rectangular stamp: SEEN AND AUTHORIZED {signature}]

**Decision of non-acceptance  
according to Art. 310 StPO in connection with Art. 319 StPO**

Accused person **Josef ACKERMANN**, as former CEO of Deutsche Bank,  
**Neil ABERCROMBIE**, **Lieutenant Shan TSUTSUI**, **Frederik PABLO**, **Joshua WISCH**, presumably residing in the Federal State of Hawaii.

Statutory Offense Complaint for war crimes according to Art. 264c, par. 1, lit. d and 264g, par. 1, lit. c StGB; Art. 108 and 109 aMStG

Private plaintiffs (Art.118 ff. StPO) Kale Kepekaio GUMAPAC, °15-1939, 20<sup>th</sup> Avenue, Kea'au, HI 96749,  
[REDACTED],  
both represented by David Keanu SAI, Honolulu, HI 96805-2194

Facts of the case/  
charges a) On December 22, 2014 the former Swiss Honorary Consul in Honolulu, Niklaus SCHWEIZER, brought a criminal complaint for war crimes allegedly committed in Hawaii and transmitted a voluminous report by a David Keanu SAI. The submitted introduced entitled "*War Crimes Report: International Armed Conflict and the Commission of War Crimes in the Hawaiian Islands*" suspects the US-American authorities of committing the war crime of pillaging by levying taxes without legal cause, since all authorities locally established are said to be unconstitutional under the laws of the Hawaiian Kingdom (section 15ff of the report). Likewise, Joseph ACKERMANN, former CEO of Deutsche Bank, is said to be held criminally liable for the committing of war crimes. The report states (section 15.8 ff) that this accusation apparently stems from a civil matter dispute between Kale Kepekaio GUMAPAC and *Deutsche Bank National Trust Company*. GUMAPAC, owner of a property on Hawaii and holder of a mortgage loan of *Deutsche Bank National Trust Company*, is said to have acquired from *Stewart Title Company* a so-called "*title insurance*," which secures his mortgage loan in case the title of acquisition of his mortgaged property would be defective. It is said that based on the illegal annexation of the Kingdom of Hawaii, the local US-American notary offices were not at all

authorized to transfer property and that the respective title of ownership was thus null and void. Therefore *Deutsche Bank National Trust Company* should have claimed its rights stemming from the "title insurance." However, it is said that the bank did not recognize this fact and instead foreclosed the house in order to cover its claims stemming from the mortgage. It is alleged that by doing so GUMAPAC's House was pillaged according to the international laws of war.

b) In a letter dated January 21, 2015, [REDACTED] alleged that he is a victim of a war crime according to Art. 115 StPO, because in the years 2006, 2007, 2011, 2012 and 2013 he paid taxes to the US-American authorities in Hawaii. The levying of taxes by the occupier is alleged to be an unjust appropriation of property on a large scale, which is not justified on the basis of military requirements. In addition it is alleged that he is the victim of a fraud committed by the State of Hawaii, inasmuch as he, together with his wife, intended to acquire a property, which however on the basis of the lack of legitimacy of the official authorities of Hawaii to register the transfer of ownership title was impossible. The Governor of the State of Hawaii ABERCROMBIE, Lieutenant Shan TSUTSUI, Frederik PABLO, director of the Department of Taxation, and his deputy Joshua WISCH should be held criminally liable on account of pillaging of the private property of [REDACTED] and on account of fraud.

c) On January, 22, 2015, Kale Kepekaio GUMAPAC confirmed in writing the accusations against Joseph ACKERMANN and in addition pointed out his rights stemming from Art. 1 of the friendship treaty between the SWISS CONFEDERATION and the then HAWAIIAN KING of July 20, 1864, which was never cancelled.

#### Justification

a) From the documents and the subsequent deliberations arises the conclusion that the statutory criminal offenses in question are clearly not fulfilled and the basis for prosecution is lacking, for which reason it is decided not to accept the matter (Art. 310, par. 1, lit. a StPO).

The application of the international law of war postulates an armed conflict, respectively the complete or partial occupation of the territory of a contracting party of the Geneva Conventions (compare common Art. 2 of the four Geneva Conventions: SR 0.518.12, 23, 42 and 51).

In the year 1898 the United States of America annexed the Republic of Hawaii (1894 until 1898) and thereby also the former Kingdom of Hawaii. The resolution providing the basis for the annexation transferred all rights

of sovereignty in and over the Hawaiian Islands and the territories dependent on Hawaii with the consent of the government of the Republic of Hawaii to the United States of America and rendered these American Territory (compare *55th Congress of the United States of America, Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States of July 7, 1898*). On August 21, 1959, Hawaii was admitted as the 50th Federal State into the Union of the United States. According to official statements of Switzerland (cf. the Country Index of the Federal Office of Justice of the Federal Department of Justice and Police), the territory of the United States of America today comprises all 50 Federal States as well as the Island of Guam, the Virgin Islands and the Northern Marianas. Switzerland maintains diplomatic relations with the United States and even a consulate in Honolulu. Hawaii thus is recognized by official Switzerland as part of the USA and in the relevant period from 2006 to 2013 in the view of Switzerland was neither completely nor partially occupied by the United States, which a priori excludes an application of the Geneva Conventions and Art. 108 and 109 aMSTG as well as Art. 264 b ff. StGB based on them. A reappraisal of the annexation of Hawaii by the United States, as implicitly requested by the private plaintiffs, is not the responsibility of the Office of the Swiss Federal Attorney General.

b) Even if one were to assume, with the plaintiffs, a state of occupation, the occupying power would be justified to levy taxes, customs duties and fees within the framework stipulated by Art. 48 and 49 of the International Convention with respect to the Laws and Customs of War on Land of 1899 (the so-called Hague Convention, SR 0.515.111).

c) Concerning the accusations directed at Joseph ACKERMANN we should remark, that we are dealing here – as far as can be understood – with the foreclosure of a mortgaged property by the mortgage creditor on account of the interest payments having been stopped by the debtor. This is a purely civil matter which is also not to be examined by Swiss prosecuting authorities.

d) For the prosecution of fraud that was simultaneously reported, allegedly perpetrated by the officials Neil BERCROMBIE, Lieutenant Shan TSUTSUI, Frederik PABLO and Joshua WISCH, Switzerland is also not responsible. Neither Art. 4, 5, 6 nor 7 of the StGB justify Swiss jurisdiction.

e) Submissions to the Office of the Federal Attorney General are to be deposited in one of the national languages (Art. 3 Law on the Organization of Prosecuting Authorities, StBOG; SR 173.71). Since we do not have to deal with the present complaint, a translation of submitted materials can exceptionally be waived.

f) The costs of this decision are borne by the Federal Exchequer (Art. 423 StPO).

g) This decision will be rendered to Josef ACKERMANN. The private plaintiffs and the remaining accused persons live in Hawaii without having indicated a postal address in Switzerland to the Office of the Attorney General. The decision at hand will therefore be made official for the record. A public announcement is waived and it is considered to be legally rendered (Art. 88, paragraph 4 StPO).

Applying Art. 264 c, par. 1, lit. d and 264 g, par. 1, lit. c StGB; Art. 108 and 109 aMStG; Art. 310, par. 1, lit. a and par. 2 in connection with Art. 319 ff StPO; Art. 3 StBOG

**it is decided that:**

1. The criminal complaints and the civil complaints against Josef ACKERMANN, Neil ABERCROMBIE, Lieutenant Shan TSUTSUI, Frederik PABLO and Joshua WISCH for war crimes allegedly committed in Hawaii between 2006 and 2013 will not be pursued.
2. The costs will be borne by the State
3. This decision will be rendered by registered letter to
  - Josef ACKERMANN
  - The private plaintiffs upon indication of a postal address in Switzerland.
4. A copy of this decision, upon it having obtained legal force, is furnished to the Legal Branch of the Office of the Federal Attorney General with an indication of the date of its having obtained legal force.

Office of the Federal Attorney General

[signature]

Andreas Müller  
Federal Prosecutor

[seal: Office of the Swiss Federal Attorney General]

**Right to appeal**

This decision can be appealed according to Art. 393 ff. StPO within 10 days after delivery or disclosure, in writing and by providing cause, to the Appeals Chamber of the Federal Criminal Court, P.O. Box 2720, 6501 Bellinzona.