

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Therese Heidingsfeld

**in re Account of August Hirsch**

Claim Number: 002151/JG

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Therese Heidingsfeld (the “Claimant”) to the published account of August Hirsch (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

### **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as her paternal aunt’s husband, Auguste (August) (Gustave) (Gusti) Hirsch, who was born on 8 October 1897 in Frankfurt am Main, Germany, and was married to H el ene (Hindele) Hirsch, n ee Heidingsfeld, in France. The Claimant indicated that Auguste Hirsch, who was Jewish, worked in the toy business in both France and Switzerland. The Claimant further indicated that Auguste Hirsch resided at 36 rue Cortambert, Paris 16, and that after his marriage he moved to 89 avenue Mozart, Paris 16, and later to Villa Chanonat, Le Mont-Dore, France. The Claimant stated that Auguste Hirsch did not have any children. According to the Claimant, H el ene Hirsch died of an illness on 10 April 1941 in Le Mont-Dore. The Claimant explained that after her aunt’s death, Auguste Hirsch attempted to flee France for Switzerland, but was denied entry. The Claimant indicated that Auguste Hirsch was deported to either Majdanek concentration camp or Auschwitz, and that he perished in 1942.

In support of her claim, the Claimant submitted copies of the following documents:

- (1) a transcript of testimony from the Yad Vashem Memorial of Israel, given on 10 March 1991 in which the Claimant’s paternal uncle, Sali (Shlomo) Heidingsfeld, stated that his sister died of an illness in Mont d’Or, that his sister’s husband was deported, and that the couple did not have children;
- (2) a bank receipt dated 16 June 1941 in Mont-Dore, signed by Auguste Hirsch;

- (3) the Claimant's aunt's obituary, which indicates that her name was Hélène Hirsch, née Heidingsfeld, that her husband had business in France and Switzerland, and that she did not have any children;
- (4) several personal letters, including one dated 5 July 1939 and addressed to Hélène and Gusti; and
- (5) a photograph of the gravestone of the Claimant's aunt which indicates her name, Hélène Heidingsfeld, née Hirsch, and that she was born in 1903 and died in 1941.

The Claimant indicated that she was born on 2 October 1953 in Sidney, Australia.

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

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report this account during their investigation.<sup>1</sup> The documents evidencing an account belonging to August Hirsch were obtained from archival sources in the Swiss Federal Archive and are further described below.

### **Information Available in the Swiss Federal Archive**

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of August Hirsch, numbered 1215.

According to these records, the Account Owner was August Hirsch, who resided at 36 Rue Cortambert in Paris 16, France. These records also indicate that the Bank did not have contact with the account owner since before 1945. On 21 January 1946 the Bank sent a letter to the Account Owner's last known address, which was returned to the bank with a note marked "deported and missing" (*deportiert & verschollen*).

These records indicate that the Account Owner held an account, held under the number V 13080, the type of which is not indicated. The records further indicate that as of 1 September 1963, the account had a balance of 52.00 Swiss Francs ("SF").

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<sup>1</sup> The CRT notes that the auditors did report another account owned by Auguste Hirsch at a different Swiss bank, and that the account owner name Auguste Hirsch was published in connection with that account on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). In a separate decision, the CRT awarded that account to the Claimant. See *In re Accounts of Auguste Hirsch* (approved on 28 May 2004).

According to the records from the Swiss Federal Archive, the account at issue was reported by the Bank to the registration office for assets of missing foreigners at the Swiss Federal Justice Department on 23 December 1963. On 1 February 1966 it was reported by the Justice Department to the Municipal Guardianship Authority (*Städtisches Vormundschaftsbüro*). On 21 July 1969, the Guardianship Authority of the City of Bern (*Vormundschaftsverwaltung der Stadt Bern*) wrote to the Justice Department indicating that Prof. Dr. Flücki, a custodian in the office for assets of missing foreigners, had died, and that Dr. Heinz Häberlin would be the new custodian of the account.

The records from the Swiss Federal Archive do not indicate the ultimate disposition of the account. There is no evidence in these records that the Account Owner or his heirs closed the account and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's uncle's name matches the published name of the Account Owner. The Claimant identified details of the Account Owner's residence including country, city, and street address, which match unpublished information about the Account Owner contained in the records from the Swiss Federal Archive.

In support of her claim, the Claimant submitted documents, including a bank receipt dated 16 June 1941 and signed by Auguste Hirsch, and a personal letter addressed to Hélène and Gusti, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the records from the Swiss Federal Archive as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes two entries for a person named August Hirsh, both of which indicate that his date of birth was 8 October 1897 and place of birth was Frankfurt am Main, Germany, which matches the information about the Account Owner provided by the Claimant. The CRT also notes that this database includes a page of testimony submitted in 1962 by August Hirsch's sister, which indicates that August (Gusti) Hirsch was born on 8 October 1897 in Frankfurt am Main, Germany; that his wife's name was Helene Hirsch, née Heidingsfeld; that he had been interned in the Gurs concentration camp in France; and that he was murdered by the Nazis in 1943 while crossing the border from France to Switzerland, which substantially matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the name August Hirsch appears only once on the List of Account Owners Published in 2005 (the "2005 List"), and that there are no other claims to this account.

### Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, that he attempted to flee France for Switzerland but was turned away at the border, and that he was deported to Auschwitz or Majdanek, where he perished. The records from the Swiss Federal Archive also indicate that the Bank attempted to contact the Account Owner in 1946, but received a note indicating that he has been deported and was missing.

As noted above, a person named August Hirsch was included in the CRT's database of victims.

### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information demonstrating that the Account Owner was the Claimant's uncle. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the records from the Swiss Federal Archive, and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted copies of documents, including personal letters written to the Account Owner, a bank receipt bearing the Account Owner's signature, and Hélène Hirsch's obituary. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form.

The CRT notes that the Claimant indicated that she has other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

### The Issue of Who Received the Proceeds

According to the records from the Swiss Federal Archive, the Bank did not have contact with the Account Owner after the Second World War and the account was registered in the 1962 Survey. Given that the Account Owner perished after being deported to Majdanek or Auschwitz; that his account was registered in the 1962 Survey; that there is no record of payment of the Account Owner's assets to him; that the Account Owner's heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumption (h), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was the husband of her maternal aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor his heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one account of unknown type. The records from the Swiss Federal Archive indicate that the value of the account as of 1 September 1963 was SF 52.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 337.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

### **Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
30 May 2008