

# 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 Frieda Hirsch (Power of Attorney Holder Alfred Hirsch)<sup>1</sup>  
and  
Accounts of Heinrich Hirsch (Power of Attorney Holder Johanna Hirsch)**

Claim Number: 201396/PY/AY<sup>2</sup>

This Certified Denial is based on the claim of [REDACTED] (the “Claimant”) to an account of Johanna Rosengart, née Hirsch, Alfred Hirsch, Lotte Hirsch, *Kaufhaus S. Rosengart*, and *J. Messerschmidt & Co.* The CRT did not locate an account belonging to Johanna Rosengart, Alfred Hirsch, Lotte Hirsch, *Kaufhaus S. Rosengart*, or *J. Messerschmidt & Co* 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 Denial is to the published account of Frieda Hirsch (“Account Owner 1”) and to the published accounts of Heinrich Hirsch (“Account Owner 2”), all at the [REDACTED] (“the Bank”).

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 are redacted.

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

The Claimant submitted an Initial Questionnaire asserting that his maternal uncle, Alfred Hirsch and his wife Lotte Hirsch, who were born in approximately 1895, owned a Swiss bank account, or that a Swiss bank account was held in the name of their business *J. Messerschmidt & Co.* The Claimant stated that his uncle and aunt, who were Jewish, resided in the Neumarkt area of Zschopau, Germany, and possibly also in Berlin, Germany. The Claimant stated further that his uncle and aunt’s business, which sold men’s, women’s and children’s clothing, was located in the Neumarkt area of Zschopau on the corner of Albertstrasse. According to the Claimant, on *Kristallnacht*, his uncle’s and aunt’s business was confiscated, and his uncle was sent to the concentration camp in Buchenwald, where he perished in 1942 or 1943.

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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 owner’s or power of attorney holders’ names are substantially similar to that of the Claimant’s relative, even if the Claimant did not specifically claim that particular account and even if the Claimant could not identify the owner of the account as his relative.

<sup>2</sup> The Claimant submitted an Initial Questionnaire with 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 201396.

The Claimant also submitted a Claim Form asserting that his mother, Johanna Rosengart, née Hirsch, who was born on 21 October 1891, and was married to [REDACTED] in 1914, owned a Swiss bank account. The Claimant stated that his mother, who was Jewish, lived in Germany, survived the Holocaust, and died on 21 October 1980. The Claimant indicated that he was born on 24 August 1920 in Graudenz, Germany.

In support of his application, the Claimant submitted documents, including photographs of his relatives and their business.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by Alfred and Lotte Hirsch.

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

The CRT notes that the Claimant submitted a claim to an account belonging to his relatives, Alfred Hirsch and Johanna Rosengart, née Hirsch. The auditors who carried out the ICEP Investigation reported four accounts whose power of attorney holders' names match those 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 5026900

The Bank's records indicate that Account Owner 1 was Frieda Hirsch, who resided in Nuremberg, Germany, and that the Power of Attorney Holder was Alfred Hirsch. The Bank's records also indicate Account Owner 1's street address. The auditors who carried out the ICEP Investigation indicated the city of residence and street address of the Power of Attorney Holder. Furthermore, the Bank's records indicate the dates of opening and closing of the account at issue.

#### Accounts 5024222, 5034107 and 5034110

The Bank's records indicate that Account Owner 2 was Heinrich Hirsch, who resided in Heidelberg, Germany, and that the Power of Attorney Holder was Johanna Hirsch-Straus. The Bank's records also indicate Account Owner 2's and the Power of Attorney Holder's relationship, their street addresses in Germany and in another country. The Bank's records also show the maiden name of the Power of Attorney Holder and a name of another power of attorney holder to the accounts at issue. Finally, the Bank's records contain the signatures of Account Owner 2 and the Power of Attorney Holder.

### **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 Account Owners

As for Account 5026900, the CRT concludes that the Claimant has not identified Power of Attorney Holder Alfred Hirsch as his relative. Although the name of his uncle matches 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 Zschopau and possibly also Berlin, Germany. In contrast, the Power of Attorney Holder resided in another city, approximately 200 kilometers away from both Zschopau and Berlin. Consequently, the CRT is unable to conclude that Power of Attorney Holder Alfred Hirsch and the Claimant's uncle are the same person.

As for Accounts 5024222, 5034107 and 5034110, the CRT concludes that the Claimant has not identified Power of Attorney Holder Johanna Hirsch-Straus as his relative. Although the maiden name of his mother matches 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 mother's maiden name was Hirsch. In contrast, the Bank's records show that the Power of Attorney Holder had a different maiden name. Consequently, the CRT is unable to conclude that Power of Attorney Holder Johanna Hirsch-Straus and the Claimant's mother are the same person.

The CRT also notes that the Claimant did not identify either Account Owner 1 or Account Owner 2 as his relative 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 Holders, but not the Account Owners, as his relatives, the Claimant would not have been 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 the Special Master, c/o Claims Resolution Tribunal, P.O. Box 9564, 8036 Zurich, Switzerland.

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 that 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  
13 October 2004