

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2]

## **in re Accounts of Richard Gans and Elfriede Gans**

Claim Number: 219334/CC/AH

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the "Claimant") to an account of [REDACTED].<sup>1</sup> This Award is to the published accounts of Richard Gans ("Account Owner Richard Gans") and Elfriede Gans ("Account Owner Elfriede Gans") (together the "Account Owners") at the [REDACTED] (the "Bank").<sup>2</sup>

All awards 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 the Account Owners as her paternal grandfather's cousin, Richard Gans, who was born on 23 December 1880 in Frankfurt am Main, Germany, and his wife, Elfriede Gans, née Bosin. In a telephone conversation with the Claims Conference staff, at the request of the Claims Resolution Tribunal ("CRT"), on 18 October 2004, the Claimant stated that Richard and Elfriede Gans were Jewish and lived in Schloss Wallenburg in Miesbach, Upper Bavaria, Germany. The Claimant stated in a follow up fax sent to the Claims Conference, and transmitted to the CRT on 18 October 2004, that Richard Gans studied

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<sup>1</sup> The CRT did not locate an account belonging to the Claimant's relative, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons ("ICEP" or the "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"). The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

<sup>2</sup> The CRT notes that, on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), Elfriede Gans is published on the list twice (as Elfride and Elfriede) and is indicated as having three accounts, and Richard Gans is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of only two accounts, which are both jointly owned by Richard and Elfriede Gans.

chemistry and law. The Claimant further stated that during the Second World War, Richard Gans attempted to hide from the Nazis, but was discovered and interned for a short time and later released. According to the Claimant, Richard Gans died in 1943. In a fax sent to the Claims Conference and transmitted to the CRT on 5 November 2004, the Claimant stated that Account Owner Elfriede Gans divorced Richard Gans in 1935 and married [REDACTED] in 1940.

In support of her claim, the Claimant submitted an excerpt from a biography by Jens Ulrich Heine (the “Heine Biography”),<sup>3</sup> which states that Richard Gans is the son of [REDACTED] and [REDACTED] and that [REDACTED] and [REDACTED] were brothers; [REDACTED]’s obituary from a Frankfurt newspaper, which states that the brothers [REDACTED] and [REDACTED] worked together at the firm *Leopold Cassella & Co.*; and the joint will of her great-grandparents [REDACTED] and [REDACTED], née [REDACTED], who, according to the Claimant, changed their family name to [REDACTED] in 1912. The Claimant indicated that in their will her great-grandparents named [REDACTED] as an executor and their son, [REDACTED], and their grandson [REDACTED], as beneficiaries. The Claimant also provided an official inheritance document which confirmed that [REDACTED] died on 18 April 1915 and which declared his son, [REDACTED], his heir; [REDACTED]’s death certificate, which stated that he died on 9 January 1963 in Düsseldorf, Germany; an official inheritance document declaring the Claimant’s mother, [REDACTED 2], the sole heir of her husband, [REDACTED]; and the Claimant’s birth certificate, showing that she is the daughter of [REDACTED] and [REDACTED 2].

The Claimant stated that she was born on 6 August 1947 in Melbourne, Australia. The Claimant represents her mother, [REDACTED 2], née [REDACTED], who was born on 13 July 1915 in Vienna, Austria.

### **Information Available in the Bank’s Record**

The Bank’s record consists of a customer card. According to this record, the Account Owners were Dr. Richard Gans and *Frau* (Mrs.) Dr. Elfriede Gans, who resided at *Schloss Wallenburg* (Wallenburg Castle) near Miesbach in Upper Bavaria, Germany. The Bank’s record indicates that the Account Owners held one custody account numbered L8343, which was opened on 11 October 1930, and one demand deposit account.

The Bank’s record indicates that both accounts were closed on 21 June 1933. The amount in the accounts on the date of their closure is unknown. There is no evidence in the Bank’s record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

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<sup>3</sup> Jens Ulrich Heine, *Verstand und Schicksal. Die Männer der I.G. Farben Industrie AG in 161 Kurzbiographien* [Understanding and Destiny. The Men of the IG Farben Industrie Inc. in 161 Short Biographies] (1990).

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names of the Claimant's relatives match the published names of the Account Owners. The Claimant identified the Account Owners' exact address, which matches unpublished information about the Account Owners contained in the Bank's record. The CRT notes that the Claimant identified the relationship between Richard Gans and Elfriede Gans, although their names were listed individually 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"). The Claimant also stated that her relative, Richard Gans, studied chemistry and law, which is consistent with the unpublished title of Account Owner Richard Gans contained in the Bank's record. In support of her claim, the Claimant submitted a published biography, which includes the names of her grandfather's cousin and his wife, providing independent verification that the persons who are claimed to be the Account Owners had the same names recorded in the Bank's records as the names of the Account Owners.

The CRT notes that there are no other claims to these accounts.

### Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and lived in Nazi Germany. The Claimant also indicated that Richard Gans was interned by the Nazis during the Second World War.

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

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Richard Gans was the Claimant's paternal grandfather's cousin and that Account Owner Elfriede Gans was his wife. These documents include an excerpt from the Heine Biography, indicating that Richard Gans was the son of [REDACTED], and that [REDACTED] and [REDACTED] were brothers; her great-grandfather's will, indicating that his heirs were his son, [REDACTED], and his grandson, [REDACTED]; [REDACTED]'s inheritance certificate, indicating that his heir was his son [REDACTED]; an inheritance certificate indicating that [REDACTED]'s sole heir was his wife, [REDACTED 2]; and the Claimant's birth certificate, indicating that her parents are [REDACTED] and [REDACTED 2].

### The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that there is no evidence that the Account Owners fled Germany prior to 21 June 1933 and would not

have been able to repatriate their accounts to Germany without losing ultimate control over their proceeds; ; that there is no record of the payment of the Account Owners' accounts to them; that the Account Owners and their heirs would not have been able to obtain information about their accounts 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 Presumptions (a), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,<sup>4</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their 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 Owners were her paternal grandfather's cousin and his wife, and those relationships justify an award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that the Claimant, as the granddaughter of Account Owner Richard Gans' cousin, and as the granddaughter of Account Owner Elfriede Gans' husband's cousin, has a better entitlement to the accounts than her mother, [REDACTED 2], who is only related to both the Account Owners by her marriage to the Claimant's father.

### Amount of the Award

In this case, the Account Owners held one custody account and one demand deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP ("ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF") and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

### Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal

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<sup>4</sup> Appendix C appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

shares by representation. Further, according to Article 23(1)(g) of the Rules, if none of the persons entitled to an award under Article 23(1)(a-f) has submitted a claim, the CRT may make an award to any relative of the account owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing her mother. As indicated above, the Claimant has a better entitlement to the account than her mother. Consequently, the Claimant is solely entitled to the account.

### **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 December 2004