

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1]
also acting on behalf of [REDACTED 2] and [REDACTED 3]

in re Account of M. and E. Gans

Claim Numbers: 300301/WI; 300302/WI

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published account of M. Gans (“Account Owner M. Gans”) and E. Gans (“Account Owner E. Gans”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).¹

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 two Claim Forms identifying the Account Owners as his parents, Moritz Gans, who was born on 7 July 1885 in Borken, Germany, and Else Gans, née Fraenkel, who was born in Voelksen, Germany. The Claimant stated that his parents, who were Jewish, were married in 1919 in Borken, that they had three sons, [REDACTED 2], [REDACTED], and [REDACTED], and that they resided at Bocholterstrasse 49 in Borken. The Claimant explained that his father was a businessman and that his mother was a housewife. According to the Claimant, in 1939 his parents fled to the Netherlands, where they lived in hiding between 1941 and 1942, at which time they were betrayed, and first imprisoned in the Netherlands and then deported to various concentration camps, including Theresienstadt, where they remained until the end of the Second World War. Finally, the Claimant stated that his father died on 11 March 1980 in Ramat Gan, Israel, and that his mother also died in Ramat Gan.

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Independent of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecutions (the “ICEP List”), M. Gans and E. Gans are published as having one account each. Upon careful review of the Bank’s record, the CRT concluded that the Bank’s record evidences the existence of only one account held jointly by Account Owner M. Gans and Account Owner E. Gans.

The Claimant submitted copies of: (1) his father's inheritance certificate, naming his wife, Else Gans, and his three sons, [REDACTED 2], [REDACTED], and [REDACTED], as his heirs; (2) a change of name certificate, dated 31 July 1972, indicating that the Claimant changed his name from [REDACTED 1] to [REDACTED 1], that his brother, [REDACTED], changed his name to [REDACTED], and that his sister-in-law, [REDACTED 3], changed her name to [REDACTED 3]; and (3) his brother's marriage certificate, indicating that [REDACTED] married [REDACTED 3] on 15 June 1952 in San Francisco, California, the United States.

The Claimant indicated that he was born on 23 May 1920 in Borken. The Claimant is representing his brother, [REDACTED 2], who was born on 27 April 1922 in Borken, and his sister-in-law, [REDACTED 3], née [REDACTED], who was born on 25 August 1929 in Cologne, Germany, and who is the widow of the Claimant's late brother, [REDACTED].

Information Available in the Bank's Record

The Bank's record consists of a customer card. According to this record, the Account Owners were M. and E. Gans, who resided in Borken in Westphalia, Germany. The Bank's record indicates that the Account Owners held one demand deposit account, which was opened on 12 July 1928 and closed on 12 December 1935. The amount in the account of the date of its closure is unknown. There is no evidence in the Bank's record that the Account Owners or their heirs closed the account and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant's parents' first initials, last name, and country of residence match the published names and country of residence of the Account Owners. The Claimant identified the Account Owners' city of residence, which matches unpublished information about the Account Owners contained in the Bank's record. The CRT further notes that the Claimant identified both Account Owners as members of his family even though they were published separately on the February 2001 list of bank accounts published by the Independent Committee of the Eminent Persons ("ICEP") to be probably or possibly of those of Victims of Nazi Persecutions (the "ICEP List").

In support of his claim, the Claimant submitted documents, including his father's inheritance certificate, providing independent verification that the persons who are claimed to be the

Account Owners had the same initials and surnames recorded in the Bank's record as the initials and surname of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Moritz Gans, and indicates that his date of birth was 7 July 1885 and that his place of birth was Borcken, which matches information about Account Owner M. Gans provided by the Claimant. The CRT further notes that the names M. Gans and E. Gans each appear only once on the ICEP List.

Finally, the CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of the Account Owners. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

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 that they resided in Nazi Germany until 1939, when they fled to the Netherlands. The Claimant further stated that the Account Owners lived in hiding in the Netherlands between 1941 and 1942, at which time they were imprisoned in the Netherlands and later deported to various concentration camps, including Theresienstadt, where they remained until the end of the Second World War. As noted above, a person named Moritz Gans was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he and the represented parties, [REDACTED 2] and [REDACTED 3], are related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's and [REDACTED 2]' parents and [REDACTED 3]'s parents-in-law. These documents include the Claimant's father's certificate of inheritance, identifying the Claimant, [REDACTED 2] and [REDACTED] as the Account Owners' sons and [REDACTED]' marriage certificate, indicating that his spouse was represented party, [REDACTED 3], née [REDACTED]. There is no information to indicate that the Account Owners have other surviving heirs other than the parties whom the Claimant is representing.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was closed on 12 December 1935. 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 the Account Owners remained in Germany until 1939 and would not have been able to repatriate their account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owners' account to them; that the Account Owners and their heirs would not have been able to obtain information about their 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 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), 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 and the parties he represents. 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 his [REDACTED 2]' parents and [REDACTED 3]'s parents-in-law 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.

Amount of the Award

In this case, the Account Owners held 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 ICEP (the "ICEP Investigation") in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). 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 26,750.00.

Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Furthermore, according to Article 23(1)(f) of the Rules, if a child of the Account Owner is deceased, that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the Account Owner for the purposes of this Article.

In this case, the Claimant is representing his brother, [REDACTED 2], and his sister-in-law [REDACTED 3]. Accordingly, the Claimant, [REDACTED 2], and [REDACTED 3] are each entitled to one-third of the total award amount.

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 his claim to determine whether there are additional Swiss bank accounts to which he 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
12 October 2007