

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED]

in re Accounts of Hers Esrig, Toni Esrig, Löbel Esrig, Avram Esrig and Fanny Esrig

Claim Number: 224262/MC

This Certified Denial is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”), to the accounts of Toni Esrig and Löbel Esrig. This Denial is to the unpublished account of Toni Esrig (“Account Owner Toni Esrig”), Hers Esrig (“Account Owner Hers Esrig”), Löbel Esrig (“Account Owner Löbel Esrig”) Avram Esrig (“Account Owner Avram Esrig”), and Fanny (Fany) Esrig (“Account Owner Fanny Esrig”) (together the “Account Owners”) 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 have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying Account Owners Löbel and Toni Esrig as her parents, Löbel (Leibl, Arie, Arje, Leib) Esrig (Etrog), who was born in Piatra Neamt, Romania, on 26 November 1898, and Toni Esrig (Etrog), née Samet, who was born on 29 March 1904. The Claimant stated that her parents, who were Jewish, resided in Cernauti, Romania (today Chernivtsi or Chernowitz, the Ukraine), and Bacau, Romania. According to the Claimant, her father was a manager of a factory and was imprisoned at a forced labor camp from 1940 to 1945 by the Nazi-allied authorities in Romania. The Claimant explained that her parents survived the War and remained in Bucharest, Romania, until 1950, when they emigrated to Israel. The Claimant indicated that her father died on 12 December 1980 and that her mother died on 5 July 1993, both in Tel Aviv.

In support of her claim, the Claimant submitted documents, including:

- (1) her marriage certificate, which indicates that [REDACTED], who is Jewish, is the daughter of Arye Loeb Esrig and Toni Esrig, and that she married [REDACTED] on 3 April 1955 in Tel Aviv;
- (2) her parents’ change of name certificate, dated 10 April 1970, which indicates that Lobel Esrig changed his name to Arie Etrog, and that Toni Esrig changed her name to Toni Etrog;

- (3) her father's death certificate, which indicates that Lobl Etrog, who was the son of [REDACTED], died on 12 November 1980 in Tel Aviv; and
- (4) her mother's death certificate, which indicates that Toni Etrog died on 5 July 1993 in Tel Aviv.

The Claimant indicated that she was born on 21 July 1933 in Cernauti. The Claimant resides in Israel.

The Claimant previously submitted ATAG Ernst & Young claim forms in 1998, asserting her entitlement to Swiss bank accounts owned by Toni and Löbel Esrig.

Information Available in the Bank's Records

The auditors who investigated this Bank reported one account jointly held by Toni and Löbel Esrig. However, a close review of the Bank's records show that the account was solely held by Toni Esrig, and that Löbel Esrig held power of attorney over the account. These records consist of a customer card, excerpts from account registers and a power of attorney form. These records show that Account Owner Toni Esrig held one custody account, numbered 67148, over which Löbel Esrig held power of attorney. According to these records, this account was opened on 16 April 1941, at which time Account Owner Toni Esrig resided in Bacau, Romania. The records show that at some point in time, the Bank was informed that Account Owner Toni Esrig had a new country of residence. According to these records, this account was closed on 31 January 1963 by way of transfer to another account with a reference number 118'916 ("*Ue [Uebertrag (transfer)] 118'916*"). The account card showing this transfer contains a notation that apparently refers to some sort of license, with the date 16 February 1953 ("*Lz [Lizenz (license)] 16.2.53*").

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents regarding Toni Esrig. One document contains a reference "4261 V.M.," although it is not clear to what this notation refers. The Bank also provided a copy of an account statement from the Bank's London branch for "Mrs. Toni Esrig," whose residence is shown as "Israel." The account statement contains the notation "Israeli account," and shows activity on the account from October and November 1953. According to this statement, on 29 October 1953 her account was credited with the amount of £1,394.4.9 from her "Israel Sundries Account." On 2 November 1953, this same amount was debited from the account and transferred to "4261. V.M. Israeil [sic]," leaving a zero balance on the statement.

The Bank also provided the CRT with additional documents regarding other accounts held by Hers, Löbel, Avram, and Fanny Esrig. These documents consist of account opening cards, power of attorney forms, correspondence between the Bank and the heirs of Hers Esrig, internal bank correspondence, and account registers. These documents refer to a total of ten other accounts owned by Hers, Löbel, Avram, and Fanny Esrig, as detailed below.

Account Owner Hers Esrig

The additional records pertaining to Hers Esrig refer to a total of five accounts. According to these records, Hers Esrig held one custody account numbered 37187, over which Löbel and Avram Esrig held power of attorney. The account cards for this account also refer to a second custody account containing gold ("*Golddepot*"). The records show that account number 37187 was closed on 23 August 1937. The records also show that Hers Esrig of Cernauti also held three custody accounts, numbered Ge 70095, Ge 70166, and Ge 70227, which were held in the Bank's London branch. According to an account register, these three accounts were closed on 1 June 1938.

The additional records pertaining to Hers Esrig also include correspondence between the Bank and certain of Hers Esrig's heirs. In a letter to the Bank, dated 28 November 1967, [REDACTED], [REDACTED], Löbel Esrig, and Fanny Wiznitzer, née Esrig, wrote that in 1929 or 1930 their father, Hers Esrig, opened a Swiss Franc denominated account at the Bank, and that he later he instructed the Bank to convert the Swiss Francs into gold coins. They wrote that, per his instructions, the Bank transferred the gold coins to its London branch in 1939 or 1940. They further wrote that, after the War, the London branch of the Bank had informed them that it had converted the gold coins to Pound Sterling in accordance with national regulations in effect during the War. They wrote that the London branch of the Bank had transferred the proceeds in Pound Sterling to the United Kingdom's "Administration of Enemy Property;" that the family remained in Romania after the War; that in 1954 their father died in Bucharest; and that they wished to take the steps required to receive their inheritance. They therefore requested the Bank to ascertain from its London branch the exact date on which the account proceeds had been transferred to the UK Custodian of Enemy Property, the amount that had been transferred, along with the address of the Custodian of Enemy Property. They requested that correspondence be sent to Izchak (Isac) Esrig in Bat Yam, Israel.

According to internal bank correspondence, the Bank carried out investigations after the receipt of the letter described above. According to internal Bank correspondence dated 27 March 1968 from the Bank's legal department regarding the matter of "A. Esrig, Brooklyn, later Israel," the legal department indicated that it had received notification from the London branch of the Bank that "[t]he assets in question were transferred to the Custodian of Enemy Property in July 1942 and we transferred a net amount of £1,429.16.8d."¹ In a letter dated 29 April 1968, the Bank informed Ischak (Isac) Esrig that the Bank had received his letters regarding the estate of Hers (Hersch) Esrig, and that assets belonging to Hers Esrig in the amount of £1,429.16.8 had been transferred to the United Kingdom Custodian of Enemy Property in July 1942. The Bank provided the address of the Custodian of Enemy Property as "Gavrelle House, Bunhill Row, London, E.C.1."

¹ These values in Pound Sterling were recorded before the decimalization of the Pound in 1971, and are expressed in terms of pounds, shillings and pence.

Account Owner Löbel Esrig

The additional records received from the Bank show that Account Owner Löbel Esrig held two accounts: a custody account numbered 37079, over which he granted *Frau* (Mrs.) Toni Esrig power of attorney on 3 December 1934, and a demand deposit account numbered 20479, which was held in the Bank's New York branch.

According to these records, the custody account numbered 37079 was closed on 22 September 1938.

According to an undated register of blocked Romanian accounts, generated by the New York branch of the Bank, account numbered 20479 was blocked as of 30 September 1950, at which time it contained assets valued at £1,434.75. According to a letter dated 27 October 1950, from the New York branch of the Bank to Loebel Esrig of Bacau, account 20479 had been frozen pursuant to Executive Order 8389.² The Bank's letter enclosed copies of US government forms for the Office of Alien Property ("OAP") in order for him to petition for the release of these. An account card subsequently shows that account 20479, owned by Loebel Esrig of Tel Aviv, Israel, was closed on 20 November 1956.

Account Owner Avram Esrig

The additional documents provided by the Bank regarding accounts owned by Account Owner Avram Esrig show that Avram Esrig held two custody accounts numbered 42081 and 42477. The records show that account numbered 42081 was closed on 20 September 1938, and account 42477 was closed on an illegible date in 1939.

Account Owner Fanny Esrig

The additional document provided by the Bank regarding an account owned by Account Owner Fanny Esrig consist of a power of attorney form, dated 5 January 1931, indicating that *Fräulein* (Miss) Fanny Esrig of Cernauti granted power of attorney to Löbel Esrig. This document shows that the account, the type of which is not indicated, was closed on 9 June 1932.

Information Obtained from the United Kingdom's Enemy Property Claims Assessment Panel ("EPCAP")

In order to obtain additional information about these accounts, the CRT contacted the United Kingdom's Department of Trade and Industry, Enemy Property Claims Assessment Panel

² During the Second World War, the United States government froze certain foreign assets located in the United States, under the powers of the Trading with the Enemy Act of 1917 (50 U.S.C. App.). On 14 June 1941, President Roosevelt extended freezing controls to cover all of continental Europe (the "1941 Freeze"). See *Plunder & Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report*, SR-44 (US Government Printing Office, 2000), available at http://www.pcha.gov/PlunderRestitution.html/html/Home_Content.html.

("EPCAP").³ In a letter dated 21 June 2005, EPCAP provided the CRT with the records of three individuals whose assets in the United Kingdom were considered Romanian-owned property and had been registered with the British government and frozen under the UK Trading with the Enemy Act of 1939.

According to the EPCAP records, Hers Esrig, who resided in Cernauti, held assets at the Bank, and the proceeds from their sale ("930 Sovereigns, and 4555 in U.S.A. Gold Coins") were £3,581.17.5. A handwritten notation indicates that Hers Esrig died on 23 April 1954. EPCAP informed the CRT that these assets, numbered TWE(R) 79285, were the subject of a claim from a "[l]ady in Israel under our scheme and compensation was paid in 2001."

The EPCAP records further indicate that Mrs. (*Mme*) Toni Esrig, who resided in Cernauti, held assets at the Bank and that the proceeds from their sale ("471 Sovereigns and 1290 U.S. Gold Dollars") were £1,429.16.8. The EPCAP records indicate that the proceedings regarding these assets, numbered TWE(R) 79286, were completed on 13 October 1953. EPCAP informed the CRT that these assets were the subject of a claim from the same woman who had filed a claim with EPCAP for the assets belonging to Hers Esrig, but that her claim had been dismissed because the proceeds from the sale of Toni Esrig's assets had been paid in 1953.

Finally, the EPCAP records indicate that Mrs. Fanny Esrig, who provided an address in care of Wiznitzer, Str. Garagiale 1, Bucharest, held assets at Lloyds Bank (a British, not a Swiss bank) valued at £214.8.3, which were frozen under the UK Trading with the Enemy Act, along with £221.18.11, which were the proceeds from the sale of 114 gold coins. The EPCAP records regarding Mrs. Fanny Esrig, numbered TWE(R) 77808, indicate that the proceeds, totaling £436.7.2, were released on 5 March 1951.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Hers Esrig, Account Owner Toni Esrig, and Account Owner Löbel Esrig. The Claimant's grandfather's name matches the unpublished name of Account Owner Hers Esrig, and the Claimant's parents' names and cities of residence match the unpublished cities of residence of Account Owner Toni Esrig and Account Owner Löbel Esrig. In support of her claim, the Claimant submitted documents, including: (1) her marriage certificate, indicating that she is the daughter of Arye Loeb Esrig and Toni Esrig; (2) her parents' change of name certificate, indicating that Lobel Esrig changed his name to Arie Etrog, and that Toni Esrig changed her name to Toni Etrog; and (3) her father's death certificate, indicating that Lobl Etrog was the son of Hersch Ertrog. These documents provide independent verification that the persons who are claimed to be Account Owner Hers Esrig, Account Owner Toni Esrig, and Account Owner Löbel Esrig had the same names recorded in the Bank's records

³ In March 1999, the British government set up a payment scheme so that victims of Nazi persecution could apply for compensation for the seizure of assets in the United Kingdom during the Second World War under the 1939 Trading with the Enemy legislation. The Enemy Property Claims Assessment Panel ("EPCAP") was established under the auspices of the Department of Trade and Industry ("DTI").

as the names of these account owners. The CRT notes that the Claimant has not identified Account Owner Avram Esrig or Account Owner Fanny Esrig. However, the Bank's records indicate that Account Owner Fanny Esrig was the daughter of Account Owner Hers Esrig, and that Account Owner Avram Esrig shared the surname of the other four account owners and was related to the other Account Owners. Accordingly, the CRT determines that by plausibly identifying Account Owner Hers Esrig, Account Owner Toni Esrig, and Account Owner Löbel Esrig, the Claimant has also plausibly identified Account Owner Avram Esrig and Account Owner Fanny Esrig.

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

Status of the Account Owners as Victims or Targets of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims or Targets of Nazi Persecution. The Claimant stated that Account Owner Hers Esrig, Account Owner Toni Esrig, and Account Owner Löbel Esrig were Jewish, that they resided in Nazi-allied Romania, and that Account Owner Löbel Esrig was imprisoned in a forced labor camp from 1940 to 1945. The CRT notes that the Claimant did not indicate the fate of Account Owner Avram Esrig or Account Owner Fanny Esrig. However, because the Bank's records indicate that Account Owner Avram Esrig and Account Owner Fanny Esrig resided in Romania and were related to Account Owner Hers Esrig, Account Owner Toni Esrig, and Account Owner Löbel Esrig, the CRT concludes that the Claimant has plausibly demonstrated that Account Owner Avram Esrig and Account Owner Fanny Esrig were also Victims or Targets of Nazi Persecution.

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 Hers Esrig was her paternal grandfather, Account Owner Toni Esrig was her mother, and Account Owner Löbel Esrig was her father. These documents include the Claimant's marriage certificate, indicating that [REDACTED] is the daughter of Arye Loeb Esrig and Toni Esrig, and her father's death certificate, indicating that Lobl Etrog was the son of [REDACTED]. The CRT notes that the Claimant has not indicated how she is related to Account Owner Avram Esrig and Account Owner Fanny Esrig. However, given that the Bank's records indicate that Account Owner Fanny Esrig was the daughter of Account Owner Hers Esrig, the CRT concludes that Account Owner Fanny Esrig is the Claimant's paternal aunt. Furthermore, given that Account Owner Avram Esrig shared the surname of the other four account owners and the address of Account Owner Hers Esrig and Account Owner Fanny Esrig, the CRT concludes that by demonstrating that she is related to Account Owner Hers Esrig, Account Owner Toni Esrig, and Account Owner Löbel Esrig, the Claimant has plausibly demonstrated that she is related to Account Owner Avram Esrig as well. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

In this case, the Bank records refer to a total of 11 accounts: five held by Hers Esrig; two by Avram Esrig; one by Fanny Esrig; two by Löbel Esrig; and one by Toni Esrig.

With regard to four accounts held by Hers Esrig, the records show that account 37187 was closed on 23 August 1937, and that accounts 70095, 70166, and 70227 were closed on 1 June 1938. With regard to the two accounts held by Avram Esrig, the records show that account 42081 was closed on 20 September 1938, and that account 42477 was closed in 1939. With regard to the account owned by Fanny Esrig, the records show that it was closed on 9 June 1932.⁴ With regard to one of the accounts owned by Löbel Esrig, the records show that account 37079 was closed on 22 September 1938. With regard to all eight of these accounts, the CRT notes that they were all closed prior to Romania's formal alliance with Nazi Germany on 20 November 1940. The CRT therefore concludes that these Account Owners closed these accounts and received the proceeds themselves.

With regard to Löbel Esrig's account numbered 20479 that was held in the Bank's New York branch, the Bank's records show that Account Owner Löbel Esrig corresponded with the Bank regarding this account after the War. In 1950, the Bank informed him that the account was frozen with the Office of Alien Property and provided him with instructions and forms in order for him to have this account released to him. The Bank's records also show that Löbel Esrig provided the Bank with his new address in Tel Aviv, and that the account was closed on 20 November 1956, while he resided in Israel. Given that Account Owner Löbel Esrig maintained contact with the Bank after the War and informed the Bank of his new address in Israel; that the Bank provided Account Owner Löbel Esrig with the necessary information and forms in order to secure the account's release from the Office of Alien Property; and given that the Bank's records show that this account was closed on 20 November 1956, when Account Owner Löbel Esrig resided in Israel, the CRT concludes that Account Owner Löbel Esrig retained control over the account, closed it, and received the proceeds himself.

With regard to Account Owner Hers Esrig's gold custody account ("*Golddepot*"), according to the letter to the Bank from his heirs, dated 28 November 1967, the Bank's London branch informed them after the War that the gold had been converted into Pound Sterling and transferred to the Administration of Enemy Property. In a letter dated 29 April 1968, the Bank wrote to [REDACTED] to confirm that assets totaling £1,429.16.8 had been transferred to the Custodian of Enemy Property, and provided him with the address of this office. The CRT notes that according to records made available from EPCAP, assets belonging to Hers Esrig in the amount of £3,581.17.5 were the subject of a claim from a "[I]ady in Israel under our scheme and compensation was paid in 2001."

The records made available from EPCAP also show that a claim was made to assets purportedly belonging to Toni Esrig in the amount of £1,429.16.8 (the exact amount cited in the Bank's letter of 29 April 1968 as belonging to Hers Esrig, and representing the proceeds of the sale of "471

⁴ The CRT notes that the account belonging to Fanny Esrig as reported in the EPCAP files was held at Lloyd's Bank in London. Because these assets were held in a British bank, not a Swiss bank, the CRT has no jurisdiction over them, and therefore reaches no determination regarding their ultimate disposition.

sovereigns and 1290 U.S. gold dollars”), and that this claim was denied because the assets were already recorded as having been paid to their rightful owner as of 13 October 1953. It is not clear from the records whether this amount (£1,429.16.8) refers to assets belonging to Hers (as referenced in the Bank’s April 1968 letter) or to Toni (as referenced in the EPCAP records). In any case, it is clear that this sum was paid to either the heirs of Hers Esrig or to Toni Esrig no later than 1953, and that a second sum of £3,581.17.5 (which, according to the EPCAP records, corresponded to the proceeds of the sale of “930 sovereigns and 4555 in U.S.A. gold coins belonging to Hers Esrig) was paid in 2001 pursuant to a claim filed by an Israeli woman. Although the name of this woman was not made available to the CRT, the CRT concludes that these assets were claimed by the Claimant and that she therefore received the proceeds of the gold previously held by Hers Esrig.

With regard to Account Owner Toni Esrig’s custody account numbered 67148, the Bank’s records indicate that the assets in this account were transferred into another account with the reference number “118’916” on 31 January 1963. The CRT notes that the records pertaining to this account refer to some sort of license and the date 16 February 1953, and that they also reflect that the Account Owner resided in a country other than Romania. The CRT also notes that the Bank’s records pertaining to Toni Esrig also contain an account statement from the period October - November 1953, which refers to transfers in and out of an account totaling £1,394.4.9, which is only slightly less than the amount (£1,429.16.8) that the EPCAP records show as having been paid to the rightful owner as of 13 October 1953. It is therefore not clear if these records refer to the same account, and if some of the proceeds of account 67148 were paid out to Account Owner Toni Esrig as early as 1953. However, it is clear that Account Owner Toni Esrig maintained contact with the Bank after the War and actively managed her assets at the Bank. The CRT therefore concludes that account numbered 67148 was closed by transfer on 31 January 1963 pursuant to instructions from Account Owner Toni Esrig, and that she received the proceeds of her account.

Accordingly, no award is appropriate in this case.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimant may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

An appeal must be based upon a plausible suggestion of error regarding the CRT’s conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimant should send appeals and/or requests for reconsideration in writing to the following address: Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision,

the Claimant should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Certification of the Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
24 March 2011