

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

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

in re Accounts of Margarethe Schaller (Power of Attorney Holder Margarita Burg-Guenther)¹

Claim Numbers: 215343/MG; 215344/MG; 215345/MG; 215346/MG; 222063/MG;
222064/MG; 222065/MG; 222066/MG; 741182/MG²

This Certified Denial is based on the claims of [REDACTED 1] (the “Claimant”) to the accounts of Maria (or Margarita) Burg Venegas, Pierre (Pedro) Burg Gonzalez, Manuel Jesús Burg Venegas and Pedro Burg Sllig. The CRT did not locate an account belonging to Maria (or Margarita) Burg Venegas, Pierre (Pedro) Burg Gonzalez, Manuel Jesús Burg Venegas or Pedro Burg Sllig 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 accounts of Margarethe Schaller (the “Account Owner”) 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 two Claim Forms asserting that his great-aunt, Maria (or Margarita) Burg, née Venegas, who was born to Pedro and Florinda Burg, in Santiago de Chile, Chile, on 5 May 1897, owned a Swiss bank account. The Claimant stated that his great-aunt resided in Toulon, France at rue Picot 50. The Claimant further stated that some of his relatives resided in Paris, France. The Claimant indicated that his great-aunt was Jewish, that she was a victim of

¹ 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 owners’ 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.

² According to Article 37 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 nine claims of the Claimant in one proceeding.

the Holocaust, and that she perished in France. The Claimant indicated that he was born in Santiago de Chile on 29 August 1941.

The Claimant submitted documents in support of his application, including his great-aunt's birth certificate.

Information Available in the Bank's records

The CRT notes that the Claimant submitted a claim to an account belonging to his relative, Maria (or Margarita) Burg. The auditors who carried out the ICEP Investigation reported two accounts whose power of attorney holder's name is substantially similar to that 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.

Accounts 5026754, 5029397

The Bank's records indicate that the Account Owner was Margarethe Schaller, who resided in Dresden, Germany, and that the Power of Attorney Holder was Margarita Burg-Günther. The Bank's records also indicate the Account Owner's street address, as well as the Power of Attorney Holder's city and country of residence and street address.

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 Owner

The CRT concludes that the Claimant has not identified Power of Attorney Holder Margarita Burg-Günther as his relative. Although the name of his great-aunt is substantially similar to the published name of the Power of Attorney Holder, the information provided by the Claimant differs materially from the published and unpublished information about the Power of Attorney Holder available in the Bank's records. Specifically, the Claimant stated that his great-aunt resided in Chile and France. In contrast, the Bank's records show that the Power of Attorney Holder resided in a country to which the Claimant established no connection. In addition, the Claimant did not identify the name Günther, which is part of the Power of Attorney Holder last name. Consequently, the CRT is unable to conclude that the Power of Attorney Holder and the Claimant's great-aunt are the same person.

The CRT also notes that the Claimant did not identify the Account Owner 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 Holder, but not the Account Owner, as his relative, the Claimant would not have been entitled to the account unless there was evidence in the Bank's records that the Power of Attorney Holder and the Account Owner were related.

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
19 November 2004