

THE INTERNATIONAL COMMISSION ON HOLOCAUST ERA INSURANCE CLAIMS

Chairman: Lawrence S Eagleburger

PRIVILEGED AND CONFIDENTIAL

24th September 2003

FOURTH REPORT OF THE PRESIDENT OF THE APPEALS TRIBUNAL TO THE CHAIRMAN OF THE COMMISSION

I, Abraham J. Gafni, President of the Appeals Tribunal (“the Tribunal”) make this Fourth Report to the Chairman of the Commission relating to the activities and conduct of the Appeals Tribunal in accordance with the requirement to report as referenced in Article 1.8 of the ICHEIC Appeals Tribunal Rules of Procedure (“the Rules”).

Period of Report

This Fourth Report covers the period 12th March 2003, being the date of my Third Report, to the present.

This Fourth Report will not have annexed redacted copies of Awards, as explained in the Third Report.

Statistical Summary

As at the date of this Fourth Report, the Tribunal has received 133 Appeal Submission Agreements. Twenty-nine Appeals relate to final decisions rendered by Zurich; thirty-four relate to decisions rendered by the AXA Group of Companies [AXA Germany and AXA France]; sixty-seven relate to decisions rendered by RAS; and, three relate to decisions rendered by Allianz.

In the Third Report, 6 invalid claims were included among the total of 68 Appeals (3 for AXA and 3 for Zurich). These claims were invalidated on procedural grounds (see page 2 of the Third Report). For example, non-life insurance claims were dismissed as they may not be appealed to the Tribunal. Consequently, the number of appeals reported in the Third Report should be amended to 62.

In the 27 week period since the Third Report seventy-one Appeal Submission Agreements have been filed.

The status of the combined total of 133 appeals is:

Sixty appeals are closed. The Arbitrators have issued 51 Awards. Thirty-four Awards have dismissed the appeal and 17 have rendered a decision in favor of the Appellant. In addition, 9 appeals have been settled prior to the appointment of an Arbitrator. Of the 34 Awards rendered in favour of the Member Company, 22 have been based on the failure of the Appellant to meet the Standards of Proof, 10 have been based on the Member

Company proving its defence that the policy or policies were paid, compensated or restituted earlier and 2 have been dismissed on jurisdictional grounds.

Seventy-three appeals are pending. Twenty-eight appeals are awaiting receipt of countersigned Appeal Submission Agreements from Member Companies. Arbitrators have been appointed in sixteen of the appeals. Two appeals are pending in connection with procedural irregularities. Thirteen appeals are being progressed so that an Arbitrator can be appointed. Fourteen appeals have been recently received and the Claims files are awaited.

The aggregate value of Awards by Arbitrators is US \$187,067.13. In addition, offers have been accepted by Appellants after their appeals have been instituted (ie, based upon subsequent offers made by Member Companies) in the aggregate amount of US \$49,328.42.

Arbitrators

Through the period of the Third Report, Sir Anthony Evans, Vice President of the Appeals Tribunal, and I, with the assistance of one additional appointed Arbitrator, rendered the decisions in all of the Appeals presented to the Tribunal. It has now become necessary, with the recent surge of appeals, to appoint new Arbitrators to assist with Tribunal Awards. The selected 10 Arbitrators are from diverse backgrounds and their nationalities are noted below. If the rate of appeals filed continues to accelerate, it may become necessary to appoint additional Arbitrators. The Arbitrators are:

NAME	NATIONALITY
1) Hon. Abraham J. Gafni (President)	United States
2) Sir Anthony Evans (Vice President)	United Kingdom
3)	United Kingdom
4)	United States
5)	Israel
6)	United States
7)	Israel
8)	Switzerland
9)	Sweden
10)	United Kingdom

Secretariat

The Appeals Secretariat has also had new appointees and personnel changes since the Third Report. In August 2003 [redacted] left employment with ICHEIC after 4 years of hard work as Legal Adviser. [redacted] became Legal Adviser for the Appeals Tribunal in July. [redacted] became Principal Legal Advisor for the German Appeals Panel in July. [redacted] continues to oversee administrative matters with the assistance of [redacted]. [redacted] has been employed as a Case Analyst since August. It would appear likely that the appointment of two additional case analysts may be necessary in light of the increased inflow of appeals for both the Appeals Tribunal and the German Appeals Panel.

Respectfully,

Signed
The Honorable A J Gafni, President of the ICHEIC Appeals Tribunal