

THE APPEALS PANEL

Established under an Agreement dated 16th October, 2002 made by and among the Foundation “Remembrance, Responsibility, and Future”, the International Commission on Holocaust Era Insurance Claims, and the [REDACTED]

THE APPEALS OFFICE, PO BOX 18230, LONDON EC1N 2XA, UNITED KINGDOM

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Chairman: Timothy J Sullivan— Panel Members: Rainer Faupel and Abraham J Gafni

PRIVILEGED AND CONFIDENTIAL

APPEAL NUMBER: [REDACTED]
CLAIM NUMBER: [REDACTED]

BETWEEN

[REDACTED]

APPELLANT

AND

[REDACTED]

RESPONDENT

DECISION

[REDACTED] makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW and enters the following Decision pursuant to Section 10 of the Appeal Guidelines:

BACKGROUND

1. The Appellant is [REDACTED] (nee [REDACTED]), born on [REDACTED] 1921 in Muhlbach (Germany) and presently resides in Florida (USA). She is the daughter, and heir, of [REDACTED], who was born [REDACTED] 1895, in Uterreichenbach (Germany) and died on 15th April 1976. The Appellant’s mother was [REDACTED] and the Appellant only had one brother, [REDACTED], who died on 18th October 1998. The Appellant is the sole survivor of her family.

2. The Respondent is [REDACTED] (“[REDACTED]”). [REDACTED]’s predecessor company is [REDACTED].
3. The Appellant submitted a claim form to the International Commission on Holocaust Era Insurance Claims (“ICHEIC”) dated 18th July 2000. The ICHEIC processed the claim under claim number [REDACTED]. The ICHEIC forwarded the claim to [REDACTED].
4. In [REDACTED]’s final decision letter dated 15th October 2004 it informed the Appellant that it had found a [REDACTED] name card for [REDACTED] concerning life insurance policy number [REDACTED]. The policy was redeemed on 2nd May 1938 and the surrender value of 1,418.90 DM was remitted on 6th May 1938. However, the Appellant’s father, [REDACTED], received compensation for the policy by the Karlsruhe Restitution Authority on 27th January 1956 in the sum of 463.16 DM. Consequently, no further payment for the [REDACTED] policy would be made.
5. The Appellant submitted an appeal to the Appeals Office dated 2nd December 2004, which was received on 8th December 2004. The Appellant is seeking to appeal the [REDACTED] decision based on the amounts paid out pursuant to the aforementioned restitution procedure in 1956.
6. The Appeals Office sent a copy of the Appeal form to [REDACTED] on 9th December 2004.
7. [REDACTED] responded in a letter dated 19th January 2005. It reiterated the comments it had made in its decision letter and asked the Panel to dismiss the appeal.
8. On 11th January 2005, the Appeals Office informed both parties that the appeal would be decided on a “*documents only*” basis unless it received notification from either party requesting an oral hearing within 14 days of receipt of this letter.
9. No request for an oral hearing was received from either party. The appeal proceeds on a “*documents only*” basis.
10. The appeal is governed by the Agreement concerning Holocaust Era Insurance Claims dated 16th October 2002 made by and among the Foundation “Remembrance, Responsibility and the Future”, the ICHEIC and the [REDACTED] and its Annexes, including, but not limited to Annex E, the Appeal Guidelines.

In conformity with Section 3.9 of the Appeal Guidelines (Annex E of the Agreement) and based upon the Appeals Panel’s general decision dated 6th July 2004 this appeal was assigned to [REDACTED].

The seat of the Appeals Panel is Geneva, Switzerland and the Decision is made there.

THE CLAIM

11. The Appellant submitted an ICHEIC Claim form on 18th July 2000 in relation to the claim for the proceeds of her father’s life insurance policy number [REDACTED]. The following information was provided:
 - a) In section one, she states that the policyholder and/or insured person and/or beneficiary was a Holocaust victim.

- b) In section three, she does not know which company issued the policy. She adds that it was purchased in Germany.
- c) In sections four and five, she is unable to provide any details or documents/statements relating to the policy. She is not aware of any payments relating to the policy.
- d) In section six, she names her father, [REDACTED], as the policyholder. She is not aware of any other living heirs.
- e) In sections seven and eight, she identifies her mother, [REDACTED], as the insured person and beneficiary. She is not aware of any other living heirs.
- f) In section nine, she states that no one has participated in any compensation/restitution procedure for this claim.
- g) In section eleven, regarding 'further information', she states: "*Sorry, have no other information. We have another son living in Florida*" [she provides contact details]."

12. The Appellant submitted biographical information with her Claim form, such as her passport.

13. Following [REDACTED]'s rejection of her claim the Appellant submitted an Appeal form dated 2nd December 2004. The Appellant explained that the compensation calculations were substantially below the value of the insurance policy and at the time of the proceedings her father was in ill health and under financial pressures. Consequently, her father was under duress to accept the small amount of compensation during 1956.

THE INVESTIGATION AND DECISION BY [REDACTED]

14. In [REDACTED]'s final decision letter dated 15th October 2004 it states:

"We are able to confirm the existence of a life insurance company [sic] under No. [REDACTED] taken out by [REDACTED] with our predecessor company '[REDACTED]'. Specifically, we have made available and attach copies of a name card relating to the policy No. [REDACTED]. [...] The documents proof that the life insurance number [REDACTED] was redeemed as per 02.05.1938 and the surrender value in the amount of RM 1,418.90 was remitted as per 06.05.1938 by postal open cheque to the person entitled. "

[REDACTED] further states in its final decision letter: "*The German Authorities have now confirmed that your father, Mr [REDACTED], had filed a claim under the German Compensation Laws regarding '[REDACTED]' policy No. [REDACTED]. The 'Landesamt für Besoldung und Versoldung Baden-Württemberg – Wiedergutmachungsstelle' has confirmed that this policy was subject matter of a decision by the 'Landesamt für die Wiedergutmachung in Karlsruhe' dated January 27th, 1956 under reference No. '[REDACTED]/ [REDACTED] – V/K/S.'* in the compensation proceeding relating to Mr [REDACTED]. Please find attached a copy of this decision. The compensation payment in the amount of DM 463.16 for policy No. [REDACTED] has already been made to Mr [REDACTED]. Hence, according to the Agreement a policy is not eligible for additional compensation, if that specific policy was covered by a prior decision of a German restitution

or compensation authority. We are confident that you will understand our decision not to submit an offer under the given circumstances.”

15. Enclosed with the decision letter, and the letter in response to the appeal, were copies of various documents evidencing the above.
16. [REDACTED] wrote to the Appeals Office on 19th January 2005. This was outside the deadline set in the Appeals Office of 9th December 2004. [REDACTED] apologised and explained that it had not received the Appeals Office letter until 10th January 2005. [REDACTED] enclosed compensation authority documents. These documents included documents that had been submitted with the decision letter (which had evidently been a selection of a larger file). The additional documents provide further details about how the compensation decision of 1956 was reached.

THE ISSUES FOR DETERMINATION

17. There is no doubt that the Appellant’s family were Holocaust victims, that [REDACTED] had insurance, or that the Appellant as sole heir would be entitled to the proceeds of the insurance. Therefore, the claim of the Appellant in general is within the scope of the Agreement. But, as far as the policy in question, namely number [REDACTED] is concerned [REDACTED] has succeeded in establishing a valid defence in accordance with the Agreement. According to Section 17.3 of the Appeal Guidelines the Appellant is not entitled to payment if;

17.3.4 the policy (or policies) in question are considered to have been covered by a decision of a German restitution or compensation authority in accordance with Section 2 (1) (c) of the Agreement.

21. [REDACTED] has proven that the [REDACTED] policy number [REDACTED] was the subject of compensation proceedings under BEG law in Karlsruhe on 27th January 1956. [REDACTED] consequently received a compensation payment of DM 463.16 for the policy. The Panel lacks the jurisdiction to reconsider any BEG payment calculation. Similarly, under the Agreement, which is binding for the parties to the appeal as well as for the Panel, there is no authority granted to the Panel to order that further sums of money be paid as compensation for policy number [REDACTED].

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated this 14th day of July 2005

[REDACTED]