

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]

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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], [REDACTED],
[REDACTED], [REDACTED],
[REDACTED], [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 [REDACTED], née [REDACTED], was born on [REDACTED] 1946 in Maidstone, England. She is the daughter of [REDACTED] who was born on [REDACTED] 1924 in Spisska Nov Ves, Slovakia and died on 30th September 1971 in Maidstone, England. Her father was the only child of [REDACTED] who was born on [REDACTED] 1892 in

Spisska Nov Ves and died in January 1945 in the Ravensbruck concentration camp. His mother [REDACTED], née [REDACTED], died in Spisska Nov Ves in 1938.

2. The Respondent is [REDACTED] ([REDACTED]).
3. The Appellant submitted five claim forms dated 6th June 2000 to the International Commission on Holocaust Era Insurance Claims (ICHEIC) claiming the following life insurance policies issued to her grandfather, [REDACTED], by [REDACTED] ([REDACTED]) in Slovakia. She named her grandfather as the policyholder and the insured, and her father as the beneficiary:

- Policy number [REDACTED] for 100,000 Czech Crowns;
- Policy number [REDACTED] for 13,980 Czech Crowns;
- Policy number [REDACTED] for 100,000 Czech Crowns;
- Policy number [REDACTED] for an unknown insured sum;
- Policy number [REDACTED] for an unknown insured sum;

Ms [REDACTED] also submitted a sixth claim form dated 6th June 2000 claiming a life insurance policy number [REDACTED] issued to her great uncle [REDACTED]. [REDACTED] resided in Budapest, Hungary prior to the Second World War and died in Auschwitz in 1944. She named him as the policyholder and insured and her father as the sole heir and beneficiary. On all claim forms, the Appellant named her sister [REDACTED] as another living heir.

In support of her claims she submitted a letter from her father's family lawyer, Mr Ondrej Lorber, dated 5th November 1945. This letter provided details of all the abovementioned policies, among others.

4. These claims were processed by the ICHEIC under claim numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] and submitted to the Respondent.

During the course of its investigations, the ICHEIC was able to uncover copies of [REDACTED] and [REDACTED]'s asset declarations dated 15th September 1940. These referred to life insurance policies to the value of Ks 160,369.10 and Ks 3,680.00 respectively.

5. [REDACTED] declined payment for these claims on 26th April 2005 stating that it had searched its archives and the German archives of its legal predecessor [REDACTED], but had been unable to find any evidence of the policies claimed. It stated:

"[REDACTED] had its headquarters in Berlin. It was a branch of [REDACTED], Vienna. Unfortunately in April 1945 the German [REDACTED] building in Berlin was bombed and burnt out almost totally. Therefore no match occurred in our records.

However, the information and documents you made available to us, may sustain your claim under the rules of the "National Fund of the Republic of Austria for Victims of National Socialism".

[REDACTED] referred the Appellant to the General Settlement Fund (GSF) which, it stated, is responsible for policies issued by [REDACTED], especially those in Austria and the former Czechoslovakia.

6. The Appellant appealed this decision on 16th May 2005 highlighting that [REDACTED] acknowledged in its letter that [REDACTED] was its legal predecessor.

7. [REDACTED] confirmed its decision on 1st June 2005 stating:

“Even though the claimant refers to various policies by [REDACTED] insurance company, the claim had to be rejected from our point of view.

...Since 1987 [REDACTED] Life Insurance is the legal successor, but only of the German [REDACTED]. So we only can check insurance policies related to the German [REDACTED]...The [REDACTED] branch always belonged to the [REDACTED] in Vienna, except to the Slovakian [REDACTED] branch, which in 1941 had to be transmitted to the “[REDACTED] ...

Based on the information that the claimant has provided in the claims, it is obvious that in this case there is no relation to the German business of [REDACTED]. Instead the policies must have been issued from [REDACTED] in Vienna or the Czech [REDACTED] ([REDACTED]) branch in Prague, because the insured sum is in Czech Crowns (KC). Therefore not the German Foundation has to deal with the claim. The Austrian fund is responsible.”

8. [REDACTED] reiterated this position in its letter to the Appeals Office dated 11th July 2005.
9. On 16th December 2005, the appeal was officially stayed until further notice pursuant to Article 3.7 of the Appeal Guidelines (Annex E to the Agreement). The parties were advised that [REDACTED]’s responsibility for [REDACTED] policies was the subject of ongoing discussions between ICHEIC and [REDACTED].
10. In conformity with section 3.9 of the Appeal Guidelines (Annex E of the Agreement) and based upon the Appeals Panel’s general decision in July 2004, this appeal was assigned to [REDACTED].

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

CONCLUSIONS OF LAW

11. The Appellant claims five life insurance policies (numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]) issued to her grandfather [REDACTED] by [REDACTED] (“[REDACTED]”) in Czechoslovakia. She has also claimed policy number [REDACTED] issued to her great uncle [REDACTED] of Hungary. The company [REDACTED] ([REDACTED]) insurance, however, is neither identical with [REDACTED], which was founded in 1987 and is incorporated in Germany, nor is [REDACTED] its predecessor in law. [REDACTED]’s predecessor was the German subsidiary of “[REDACTED]” which was a *separate* entity from the insurance company [REDACTED] “[REDACTED]” in Slovakia. It is accepted that [REDACTED] is responsible *only* for policies taken out with the German company “[REDACTED]”.
12. [REDACTED] has searched all available and relevant archives for insurance contracts with [REDACTED] and [REDACTED], including those of “[REDACTED] Insurance” in Germany. Furthermore, it searched public archives including those of the German restitution authorities. However, [REDACTED] was unable to find any evidence indicating insurance contracts with the Appellant’s relatives. There is, therefore, no evidence supporting a finding that an insurance policy was issued by the legal predecessor of [REDACTED].

13. In fairness to the Appellant, this case will be referred to the ICHEIC Claims team so that the matter may be processed in Austria by the General Settlement Fund, since [REDACTED] (“[REDACTED]”) insurance in Czechoslovakia was directed originally from Austria. If this processing is not deemed possible, it is recommended that the Appellant be considered eligible for a humanitarian payment under the relevant ICHEIC procedures pursuant to Section 8A2 of the Memorandum of Understanding.

IT IS THEREFORE HELD AND DECIDED:

1. The appeal is dismissed.
2. The claim be referred to the Austrian General Settlement Fund for processing.

Dated this 26th day of January 2006

[REDACTED]