

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]

BETWEEN

[REDACTED] & [REDACTED]

APPELLANTS

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], submitted a claim form to the ICHEIC process on 15th January 2002. His uncle [REDACTED] had purchased a life insurance policy numbered [REDACTED] from [REDACTED] in Hungary prior to the Holocaust, and this was evidenced in an Asset Declaration List dated 27th April 1938. [REDACTED] worked as a clerk in a shoe shop in Vienna. The Appellant and his brother, [REDACTED], are the only living heirs to [REDACTED], because most family members were killed during the Holocaust. ICHEIC set up claim number [REDACTED] and the claim was sent to [REDACTED] because [REDACTED] was its Hungarian subsidiary company.

2. [REDACTED] offered the Appellant and his co-heir brother the total sum of US\$4,806.86 for their uncle's policy in its decision letter dated 21st April 2005. [REDACTED] calculated the policy on the basis of an average policy issued in Hungary.
3. The Appellants submitted appeal forms dated 23rd July 2005 to the Appeals Office and confirmed their wish to appeal the [REDACTED] offer together with a report dated 10th July 2005 by the Bar Lev Investigative Auditing which based the valuation of the Hungarian policy on calculation principles agreed by the "*Parliamentary Investigative Committee for the Location and Reimbursement of Assets of those who perished in the Holocaust*". Based on this report, they contend that the current value of the policy is \$24,473.78 Dollars/Shekel. Consequently, this Decision is limited to determining, in accordance with the ICHEIC Valuation Guidelines, the value of the policy which was purchased by [REDACTED].
4. The parties were given the opportunity to request an oral hearing by way of telephone conference in correspondence dated 7th September 2005. There was no request for an oral hearing. Accordingly, this appeal is determined upon the documentation presented during the ICHEIC Claims and Appeals processes.
5. 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 of 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 this Decision is made there.

VALUATION

6. Under the Agreement (see paragraph 4), the valuation of insurance policies must be based solely on the Valuation Guidelines which form Annex D of the Agreement. The Appellants have relied on a valuation methodology with different multipliers, interest rates and currencies. The Appeals Panel may only apply the agreed Valuation Guidelines methodology and does not have the authority or jurisdiction to deviate from the ICHEIC Valuation Guidelines.
7. In cases, in which, as here, the amount of the policy cannot be determined, Section 7.1 of the Valuation Guidelines requires that the offer be based on a multiple of three times (3x) the average value for policies in the respective country as shown in Schedule 3 (Section 7.1 of the Valuation Guidelines).
8. According to Schedule 3 of the said Valuation Guidelines the average value of life insurance policies in Hungary is Pengo 827. The base value for qualifying claims is a multiple of three times (3X) the average value. Three times Pengo 827 gives Pengo 2481. [REDACTED] has correctly noted the figure in its valuation sheet. For Eastern European claims the amount of Pengo 2481 is converted from local currency to US dollars at the discounted exchange rate of US\$0.1376 according to Step 1 of Schedule 2 of the Valuation Guidelines. [REDACTED] has correctly applied the discounted exchange rate in its valuation sheet. US\$341.38 must be updated in value to the end of the year 2000, pursuant to Step 2 of Schedule 2 for Eastern European claims, by multiplying the by 11.286. [REDACTED] has multiplied by 10 rather than by 11.286 as provided in the Valuation Guidelines. The value in 2000 according to the Valuation Guidelines is US\$3,852.81.

9. For offers made from January 2001 the value must be updated by agreed multipliers as shown in Schedule 2 (Section 2.2 of the Valuation Guidelines). According to Step 3 of Schedule 2 of the said Annex, additions must be made to the value up to the end of 2000 for the subsequent years. These interest rates have been agreed in the Valuation Guidelines for 2001 and 2002 and have been fixed for 2003, 2004 and 2005 by a Memorandum of ICHEIC after consultation with the Foundation and the [REDACTED] as the other parties to the Agreement (2001: 5.4%; 2002: 5.0%; 2003: 4.75%; 2004: and 5%; 2005 according to the month, in which the decision is made, plus two months, i.e. 6/12 of 5% provided by Schedule 2, Step 3), which leads to the amount of US\$4,060.86 for 2001, US\$4,268.91 for 2002, US\$4,471.68 for 2003, US\$4,695.26 for 2004, and US\$4,812.64 for 2005. The [REDACTED] offer was made in April and so interest is calculated until June 2005.
10. The offer made by [REDACTED] to the Appellant totalling US\$4,806.86 for policy number [REDACTED] is US\$5.78 less than the calculation under the Valuation Guidelines.
11. Pursuant to Section 21 of the Appeal Guidelines at Annex E of the Agreement, interest may be ordered on an award if (21.1.2) the Claimant appeals a decision by the relevant German company which is an offer and the Panel, Panel Member or Arbiter, makes an award to the Claimant. Interest shall be credited from the date of [REDACTED]'s decision (April 2005) to the date of the decision (January 2006) at the rate equivalent to the interest rates referenced in the Valuation Guidelines (21.2).
12. Consequently, to the US\$4,695.26 calculated in paragraph 9 above for 2004, further interest must be added at the agreed rates of 5% for 2005 and 2006 (3/12 of 5%). The calculations in accordance with the Valuation Guidelines are as follows: US\$4,930.02 for 2005 and US\$4,991.64 for 2006.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed. However, the offer made by [REDACTED] in the sum of US\$4,806.86 is increased by the sum of US\$184.78 so that the amount to be divided equally between the co-heir Appellants is US\$4,991.64.

Dated: 27th January 2006

[REDACTED]