

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]

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] (formerly [REDACTED]), submitted fourteen claim forms to the ICHEIC process on 10th January 2002 for policies issued to his family members. ICHEIC set up claim number [REDACTED] to incorporate all of his claims.
2. [REDACTED] sent the Appellant a final decision letter on 11th February 2005 stating that it could find information relating to only one of the claims submitted by the Appellant. It had

earlier located a central register entry for [REDACTED] relating to policy number [REDACTED]. No further information about the value of the policy could be determined. Based upon that finding, the [REDACTED] ([REDACTED]) had already offered a humanitarian payment of US\$3,000 on 21st December 2004 to [REDACTED], a granddaughter to [REDACTED], through her maternal family line as her grandmother was [REDACTED] – wife to [REDACTED]. The offer had been accepted on 14th February 2005 by [REDACTED] as evidenced by the signing of a Consent & Waiver form.

3. The Appellant submitted an appeal form to the Appeals Office dated 12th April 2005 and confirmed his wish to appeal the distribution of the proceeds of the offer. He claimed 50% entitlement through his maternal family line because his great grandmother was [REDACTED] who was [REDACTED]’s first wife and asserts that [REDACTED] was [REDACTED]’s second wife. The Appellant submitted a copy of the Koblenz Court settlement document dated 3rd June 1953 concerning the seizure of real estate that notes [REDACTED] (née [REDACTED]) of Johannesburg, South Africa and [REDACTED] (née [REDACTED]) of Cologne, Germany as two of the four Claimants. He states: *“I only received documentation regarding an inheritance agreement for the estate of [REDACTED] (drawn up on the 8th June 1953 in the form of a declaration issued by the Koblenz district court) following the death of my mother, [REDACTED], née [REDACTED], in November of last year.”*

4. [REDACTED] does not believe her grandfather first married [REDACTED], the Appellant’s great grandmother, and then married her grandmother [REDACTED].

5. An issue for determination is whether according to Section 17.2.2 of the Agreement the Appellant is entitled to any proceeds of the policy pursuant to the Succession Guidelines (Annex C).

6. 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.

SUCCESSION GUIDELINES

7. In view of the Appellant’s submissions, this Decision is limited to determining, in accordance with the ICHEIC Succession Guidelines, the entitlement to the proceeds of the policy purchased by [REDACTED]. Under the Agreement (see paragraph 5) the issue of succession must be based on the Succession Guidelines which form Annex C of the Agreement.

8. Section 17 of the Appeal Guidelines (Annex E) states that *“The Panel, Panel Members or Arbiters shall admit all evidence, including information statements and documents presented by the parties and any other information available and shall weigh the evidence applying the Relaxed Standards of Proof (Annex B) of the Agreement, bearing in mind the circumstances of each case, the difficulties of tracing documents and information and of proving or disproving the*

validity of a claim after the destruction caused by the Second World War and the Holocaust and the long time that has elapsed since the insurance policies were issued.”

9. I have duly considered all documentation presented by the Appellant, as well as the related claim [REDACTED] by [REDACTED]. It is clear from [REDACTED]’s claim that her mother [REDACTED] was the daughter of [REDACTED] and [REDACTED] (née [REDACTED]). [REDACTED] claimed her maternal grandparent’s insurance in claim [REDACTED]. The Appellant asserts that [REDACTED] is his great grandfather through his maternal family line. [REDACTED] wrote to the Dierdorf Local Government Office to obtain a copy of the marriage certificate between [REDACTED] and the Appellant’s great grandmother, [REDACTED]. In a reply dated 2nd March 2005 no marriage certificate was found.

10. The Appellant submitted a Claim form dated 28th June 2002 in which his uncle [REDACTED] was the policyholder, his aunt [REDACTED] is the insured person and the beneficiary of the policy was his aunt [REDACTED]. The Appellant submitted [REDACTED]’s birth certificate which states she was born on 18th August 1914 in Dierdorf. However, there is no blood connection between the Appellant and [REDACTED] and she is not his aunt. Notwithstanding this inconsistency, the 1953 Court documentation (paragraph 3 above) submitted by the Appellant does show that his grandmother [REDACTED] (née [REDACTED]) was a co-Claimant with [REDACTED]’s mother [REDACTED] (formerly [REDACTED], née [REDACTED]). It is plausible that the Appellant has a family connection with the policyholder [REDACTED] and is, therefore, entitled to a share of the policy proceeds.

11. The Succession Guidelines at Section 6 state: *“In any decision of the Panel, Panel Member or Arbiter, the obligation of any particular company is limited to one payment of the proceeds of the policy, which may be divided between one or more persons as decided by the Panel, Panel Member or Arbiter.”* This means that [REDACTED] and/or the [REDACTED] have no obligation to make any further payment to any heir for policy number [REDACTED]. In good faith the sum of US\$3,000 was paid to [REDACTED] on the basis of the documentation then produced to [REDACTED] and/or the [REDACTED] that she was the sole known heir to [REDACTED]. [REDACTED] has acted in accordance with ICHEIC guidelines. The ICHEIC process is claims-driven. Companies are responsible for reviewing information on the claim form and dividing offers based upon that information. Companies are under no obligation to seek out or consider additional information as to entitlement beyond that provided on the claim form.

12. Prior to receiving payment, [REDACTED] signed the Consent & Waiver form (at Annex F of the Agreement), required of all Claimants and Appellants under the ICHEIC process. It states at paragraph (e): *“In consideration of payment, I undertake and agree that in the event that one or more other entitled claimants make(s) a claim under the policy, or otherwise seek(s) payment or compensation in connection therewith, I shall share the payment with such other entitled claimant(s) on a pro rata basis, in the absence of another mutually agreed basis.”*

13. The Appeals Panel has no jurisdiction to make any further award once a Consent & Waiver form has been signed. In accordance with the terms of the Consent & Waiver form outlined above at paragraph 12, ICHEIC has in place a procedure designed to resolve questions with respect to the entitlement of heirs. Accordingly, the Panel refers this matter to ICHEIC for determination according to that procedure.

14. With respect to all of the other claims consolidated, to the extent that it may be deemed that their denial has also been appealed, as there is no plausible evidence adduced to support them, they will be dismissed as well.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated: February 2006

[REDACTED]