

**THE APPEALS PANEL**

Established under an Agreement dated 16<sup>th</sup> 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

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**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], née [REDACTED], was born on [REDACTED] 1921 in Nitra, Czechoslovakia. She is the daughter of [REDACTED] who was born on [REDACTED] 1896 in Topolcany (then Austria-Hungary, later Czechoslovakia) and died in 1942 in Auschwitz.
2. The Respondent is [REDACTED] ([REDACTED]) as the legal successor to [REDACTED].
3. The Appellant submitted a claim form dated 27<sup>th</sup> November 2000 to the International Commission on Holocaust Era Insurance Claims (ICHEIC) claiming a life insurance policy issued to her father by the [REDACTED] insurance company. She indicated that her father was the insured person and beneficiary and that the policy was purchased in Czechoslovakia for the insured sum of Ks 100,000. She stated that the policy was due to mature in approximately 1942.

At section 11 of the claim form she stated: *“I was told by my father that insurance is my dowry. It was to mature about 1942. I do not know if I was not named as a beneficiary of the policy or my mother [REDACTED] was not named. So I listed my father [REDACTED] only.”*

4. This claim was processed under claim number [REDACTED] and forwarded to the Respondent for investigation.
5. [REDACTED] declined the claim on 24<sup>th</sup> May 2005 stating that it had been unable to find any evidence of the policy in its archives or the German archives of [REDACTED]. It was also unable to find any reference to the policy in the archives of the German compensation and restitution authorities.
6. The Appellant appealed this decision on 22<sup>nd</sup> July 2005 stating:

*“Since [REDACTED] was established in 1987 and it is not a subsequent company to [REDACTED] Company, as I gather, they could not possibly have information about the subject of the insurance.*

*Accordingly, I am requesting further investigation into the matter of the subject insurance issued by [REDACTED] Company of Czechoslovakia or the documentation of the parent company or the subsequent company.*

*I reserve the right to further pursue the matter of my insurance claim with [REDACTED] Company notwithstanding the appeal decision on the [REDACTED], since it seems that this insurance company is not the pertinent company for my insurance claim.”*

7. [REDACTED] confirmed its decision in a letter to the Appeals Office dated 1<sup>st</sup> September 2005 stating:

*“Even though the claimant refers to a policy by [REDACTED] insurance company, issued in former Czechoslovakia, the claim had to be rejected from our point of view.*

*[REDACTED] life insurance bought in 1987 the asset accounts only of the German [REDACTED] branch. All other contracts and policies are under the responsibility of [REDACTED] headquarters in Vienna, Austria. In other words: we can only examine contracts, which are related to policies, which were sold from the German [REDACTED].*

*In the time of Nazism the headquarters of the [REDACTED] group was in Vienna, as it is today. The group was run and directed only from there. The German business was local business and had to report to Vienna. The German [REDACTED] branch in Berlin was a subsidiary with no connection and influence to the Austrian, Czechoslovakian or Hungarian business. This business was directed from Vienna and run by the local subsidiaries in Prague, Bratislava or Budapest...*

*The claim here is related to the headquarters of [REDACTED], Vienna, because insurance policies issued from the Slovakian [REDACTED] ([REDACTED]) branch in Bratislava or Prague have to be audited in Austria under the rules of the Austrian General Settlement Fund. Such claims are not related to the agreement between the ICHEIC, the German Foundation and the [REDACTED].”*

8. On 23<sup>rd</sup> September 2005 the Appeals Office informed the parties that the appeal would be decided on a “documents only” basis unless it received a request for an oral hearing from either party within 14 days of receipt of the letter. The Appellant requested an oral hearing on 28<sup>th</sup> September 2005.
9. On 16<sup>th</sup> 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 the 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 16<sup>th</sup> 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 a dowry policy issued to her father [REDACTED] by [REDACTED] (“[REDACTED]”) insurance in Czechoslovakia. This company 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 Prague. 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 an insurance contract with [REDACTED], including those of “[REDACTED] ([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 an insurance contract with the Appellant’s father. 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 Prague was directed 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.

14. As the appeal is dismissed the Appellant's request for an oral hearing is declined.

**IT IS THEREFORE HELD AND DECIDED:**

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

Dated this 26<sup>th</sup> day of January 2006

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[REDACTED]