

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]
[REDACTED] Direct Claim

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]. He is the grandson of [REDACTED] who was born on [REDACTED] 1879 in Zenta, then Austria Hungary, and perished in the Auschwitz concentration camp in 1943. His mother was [REDACTED] who was born on [REDACTED] 1911 in Zenta and died in March 2003 (place of death unknown).
2. The Respondent is [REDACTED] ([REDACTED]).
3. Prior to the formation of the International Commission on Holocaust Era Insurance Claims (ICHEIC) the Appellant contacted the Respondent claiming an insurance policy or policies issued to his grandfather and his mother.

4. [REDACTED] issued a provisional decision letter on 28th May 1997 stating that it was unable to locate an entry in its central register for the Appellant's grandfather [REDACTED] or his mother [REDACTED], née [REDACTED].

The Respondent confirmed the provisional decision in its final decision letter dated 18th May 2005.

5. The Appellant appealed the decision to the ICHEIC Appeals Office on 29th May 2005 asserting that his grandfather [REDACTED] had "*life insurance and insurance for his company*".

In support of the appeal, the Appellant submitted several documents establishing Mr. [REDACTED]'s wealth, including:

- a) A decision of the Claims Resolution Tribunal dated 31st March 2005 regarding the financial assets of a Mrs [REDACTED]. This decision states that Mr [REDACTED] co-owned a winery with Mrs [REDACTED] called "*[REDACTED] & [REDACTED]*".
 - b) Several witness statements from the 1970s mentioning the standing of [REDACTED]'s family prior to the war. These state that her father [REDACTED] was the part-owner of the spirits factory, and held wine cellars, houses and land in the vicinity of Zenta.
 - c) A decision of the Probate Court in Hungary in 1947, which refers to Mr [REDACTED]'s houses and property.
6. The Appellant reiterated that his grandfather's property was insured by [REDACTED] in a letter dated 22nd November 2005 stating:

"The only information what I know, [is] that my Grandfather's establishments (houses in Senta, fields, farm house, beer factory etc) [were] insured by [REDACTED]."

7. [REDACTED] responded to the appeal on 6th December 2005 confirming its decision.
8. 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 Panel Decision is made there

CONCLUSIONS OF LAW

9. Pursuant to Section 17.2 of the Appeal Guidelines (Annex E of the Agreement) a claim is only eligible for compensation where an Appellant can show, based on the Relaxed Standards of Proof, that it is plausible:

17.2.1 that the claim relates to a life insurance policy in force between 1st January 1920 and 8th May 1945, and issued by or belonging to a specific German company (as

defined in the Glossary to this Agreement) and which has become due through death, maturity or surrender;

- 17.2.2 that the claimant is the person who was entitled to the proceeds of that policy upon the occurrence of the insured event, or is otherwise entitled in accordance with Section 2 (1)(d) of the Agreement and pursuant to the Succession Guidelines (Annex C); and
- 17.2.3 that either the policy beneficiary or the policyholder or the insured life, who is named in the claim was a Holocaust victim as defined in Section 14 of the Agreement.
10. Where the relevant German company can trace no written record of a policy, the burden upon the Appellant to establish that a policy existed is a heavy one, even when the burden is limited to establishing that the assertion is “plausible” rather than “probable”. Where the Appellant is not able to submit any documentary evidence in support of the claim, the Appellant’s assertion must have the necessary degree of particularity and authenticity to make it credible in the circumstances that a policy was issued by the company.
11. In this case, there is no doubt that the Appellant grandfather was a Holocaust victim for the purposes of the Agreement. It is also clear that the Appellant is entitled to bring this claim as his mother’s sole heir. Therefore, the sole issue for determination relates to whether the Appellant has established that the Respondent issued a policy or policies of insurance to his grandfather as claimed.
12. However, the Chairman finds that whilst the Appellant has succeeded in establishing his grandfather to be a man of significant wealth prior to the war, he has not provided any documentary or anecdotal evidence establishing the existence of a contractual relationship between [REDACTED] and [REDACTED].
13. The Respondent’s central index register of applications for insurance policies is complete for the period 1923 until 1976. Therefore, the absence of an entry for the Appellant’s grandfather in this register is strong evidence against the existence of a contractual relationship. Although it is likely that a man of Mr [REDACTED]’s wealth would have held some kind of insurance as security for his family and property, without more compelling or persuasive evidence to support the claim, the Chairman determines that the Appellant has not met his burden of proof in establishing [REDACTED] to be the insurer, even applying the Relaxed Standards of Proof. As the provisions of section 17.2 have not been met, the appeal must be dismissed.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated this 24th day of February 2006

[REDACTED]