

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]

THE APPEALS OFFICE, PO BOX 18230, LONDON EC1N 2XA, UNITED KINGDOM

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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]

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 Dr [REDACTED] was born on [REDACTED] 1928 in Budapest (Hungary). His father [REDACTED], a civil engineer, was born [REDACTED] 1893 in Vajszló (Hungary) and died 3rd December 1960 in Budapest. His mother [REDACTED] (née [REDACTED]) was born [REDACTED] 1896 in Hódmezővásárhely (Hungary) and died in Budapest on 3rd December 1991. His brother [REDACTED] was born [REDACTED] 1925 in Budapest. His sister [REDACTED] (née [REDACTED]) was born [REDACTED] 1926 in Budapest. The

Appellant appeals in his own right and on behalf of his brother and sister, as co-heirs of their father [REDACTED].

2. The Appellant, represented by Dr [REDACTED] submitted a Claim Form dated 4th February 2002 to the International Commission on Holocaust Era Insurance Claims (ICHEIC), in which he claimed that “[REDACTED]. *Legal successor as of 1 July 1937 [REDACTED]*” issued a policy of life insurance numbered [REDACTED] to his father, [REDACTED]. He provided a copy of the policy numbered [REDACTED] and copies of premiums receipts recording payments made to “[REDACTED]” for policy numbered [REDACTED] from September 1929 to November 1931.
3. The ICHEIC forwarded the claims to the Respondent, [REDACTED] ([REDACTED]) and processed the claim under numbers [REDACTED] and [REDACTED].
4. [REDACTED] declined the Appellant’s claims in its final decision letter dated 15th June 2004.
5. The Appellant submitted an Appeal Form dated 9th November 2004 which was received by the Appeals Office on 22nd November 2004.
6. The Appeals Office forwarded the Appeal Form to [REDACTED] on 22nd November 2004.
7. [REDACTED] sent a letter dated 22nd December 2004 requesting affirmation of its original decision.
8. On 4th January 2005 the Appeals Office informed both parties that the appeal will be decided on a “*documents only*” basis unless it received notification from either party requesting an oral hearing within 14 days of the date after receipt of its letter. No request for an oral hearing has been received from either party. The appeal proceeds on a “*documents only*” basis.
9. The Appellant sent the Appeals Office a letter dated 18th January 2005 enclosing documents.
10. The Appeals Office sent a copy of the letter and accompanying documents to [REDACTED] on 17th February 2005.
11. 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.
12. 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].
13. The seat of the Appeals Panel is Geneva, Switzerland and the Panel Decision is made there.

THE CLAIM

14. The Appellant submitted the following information in his ICHEIC Claim Form dated 12th February 2002 for the proceeds of a life insurance policy:
 - a) In section three he identifies “[REDACTED]. *Legal successor as of 1 July 1937 [REDACTED]*” as the insurance company that issued a policy of life insurance to his father [REDACTED];
 - b) In section five he identifies the type of insurance policy as “*endowment*” insurance policy number [REDACTED] issued on 25th November 1931 and maturing on 1st July 1949. The Appellant states that the mode of payment of the premium was “*monthly payment*” and the amount of the premium was “*5000 US Dollars*”. The Appellant asserts that not all the premiums were paid “*because of the German occupation*” but they were paid between 1929 and 1944;
 - c) The policyholder and insured person is identified as the Appellant’s father, [REDACTED], born [REDACTED] 1893 in Vajszlo and who died 3rd December 1960 in Budapest;
 - d) In section eight he states: “*The named beneficiaries are the three legal heirs, who are all represented by Dr [REDACTED]. The names of the legal heirs: [REDACTED], [REDACTED] and [REDACTED]*”;
 - e) In section nine he states that there have been no previous compensation procedures for this claim and states: “*we regrettably had no information about it*”;
 - f) In section ten the Appellant states that he is being represented by Dr [REDACTED] during the claims process; and
 - g) In section eleven he states: “*Further detailed information is in the documents enclosed with this application.*”
15. The Appellant submitted copied documents, including:
 - a) Insurance policy numbered [REDACTED] issued by [REDACTED] to [REDACTED] for the insured amount of US\$5,000. The date of commencement of cover is 1st August 1929, the date of issue is 25th November 1931 and the date of maturity is 1st August 1949;
 - b) Copies of receipts for monthly premium payments of US \$13 paid to “[REDACTED]” for policy numbered [REDACTED] from September 1929 to November 1931;
 - c) a typed list of premiums paid from August 1929 to May 1944 to the sum of US\$3,633.78; and
 - d) a handwritten list by [REDACTED] of insurance premiums paid between 1929 and 1939.
16. The Appellant also submitted biographical information such as his passport and birth certificate, his father’s passport, birth and death certificates and declaration of pension entitlement, his brother’s and sister’s birth certificates, his parents’ marriage

certificate, a typed document setting out the [REDACTED] family tree, and a photograph of the [REDACTED] family in 1940.

THE APPEALS PROCESS

17. In a letter dated 22nd November 2004 the Appellant set out his reasons for appealing [REDACTED]'s decision:

“We three, children of our parents, [REDACTED] (jr), Mrs [REDACTED]née [REDACTED] [REDACTED] (claimant) declare we don't agree with the decision of [REDACTED] ([REDACTED]) which is part of the [REDACTED], the decision was wrong, therefore we appeal this decision. Our insurance claims is the compensation of my father unpaid life insurance policy.

“My father, [REDACTED] bought life insurance contract with [REDACTED] Insurance company for 5000 \$ in 1929. He had to pay the 25% of his salary in every month for the insurance. Therefore the family was in a very hard living conditions.

“In March 1944 the Nationalist Socialist German groups occupied Hungary, [REDACTED] went out from Hungary and the insurance process was interrupted. The sum of the life insurance contract would be paid out in 1949.

“In Oct. 1944 began the fascist terror. The family disrupted. My father and my brother had to work far from Budapest in a war factory. My mother and my sister lived the siege of Budapest through two month. Our flat damaged by bombs, there was just few food. I was 16 year old and I had to go to a working camp layer I was taken into prison by the soviet forces.

“The [REDACTED] in their letter, arrived 22.Jul.2004 to Hungary established that the family based of their examination doesn't fill the “Holocaust victim” requirements therefore they decline our claims.

“Our family declares we fill the status of Holocaust victim. The ICHEIC-German Foundation definition says Holocaust victim is defined as anyone who: suffered loss or deprivation of financial or other assets (item 4).

“In addition we have lived the above listed sufferings in the Holocaust Era”.

18. In a letter to the Appeals Office dated 18th January 2005 the Appellant states:

“We would like to state you the following:

“1) My father's life insurance process began in 1929 and was broken off in May 1944 after the Nazi Groups occupied Hungary. The [REDACTED] Insurance Company closed their activities and went out from Hungary and not after the later nationalization in Hungary (1947-48) as it was stated by [REDACTED].

“2) ICHEIC has established, [REDACTED] has acknowledged that he is the legal successor of the [REDACTED] Insurance Company. See the enclosed two letters from ICHEIC dated 10 and 12 June 2002. [...]

“3) We have already sent all the accounts of the payments (which we had to pay every month) together with the claims to the ICHEIC in Jan 10 2002. The nominal sum of

the life insurance was 5000 USD, the deposited sum from 1929 to 1944 was 3634 USD. In opposition to the statement of [REDACTED], [REDACTED] should therefore have enough information concerning our life insurance process given in our claim documentation...[...]

“4) We don’t agree with [REDACTED] that we don’t falls within the frame of the Holocaust victim definition. The ICHEIC definition clearly says that Holocaust victim is who was suffered in mental and physical health, suffered loss of their property during the period of 1933-45...”.

THE INVESTIGATION AND DECISION BY [REDACTED]

19. [REDACTED] stated in its decision letter dated 15th June 2004: *“We have to inform you that based on the information you provided and our search, no evidence was given as to the status of “Holocaust Victim” according with the ICHEIC-German Foundation definition; therefore we are declining your claims”.*
20. In its letter dated 22nd December 2004, [REDACTED] states: *“We cannot but confirm that the claimant’s submissions made both during the claim process and in the Statement of Grounds of Appeal (SOGA) clearly show that this claim does not fall within the frame of the Holocaust victim definition contained in the Tripartite Agreement of October 16, 2002. On the contrary, all evidence shows that the claimant’s family has to be rather regarded as victim of World War II, and particularly of the Soviet troops, which bombed their house and took into prison the Appellant. Moreover, there is no relationship at all between the Nazi invasion of Hungary and the non-payment of the life insurance policy at issue. It is also untrue that “[REDACTED] went out from Hungary” in 1944, as the SOGA states”.*

THE ISSUES FOR DETERMINATION

21. The Agreement concerning Holocaust Era Insurance Claims dated 16th October 2002 covers, according to its introductory language, *“the settlement of individual claims on unpaid or confiscated and not otherwise compensated policies of German insurance companies in connection with National Socialist injustice”.* Losses and deprivations not connected with National Socialist injustice and specifically the Holocaust are not covered by the Agreement. The sole issue for determination in this Appeal is whether either the policyholder or the Appellant was a Holocaust victim as defined in Section 14 of the Agreement.
22. For the purposes of the Agreement, *“Holocaust victim”* means *“anyone who, as a result of racial, religious, political or ideological persecution by organs of the German National Socialist Regime, was deprived of his/her life or freedom; suffered damage to his/her mental or physical health; was deprived of his/her economic livelihood; suffered loss and deprivation of financial or other assets; or suffered any other loss or damage to his/her property...”.*
23. ICHEIC processed the claim for policy number [REDACTED] under claim number [REDACTED] and policy number [REDACTED] under claim number [REDACTED]. However, it appears that the two policies are really one. An examination of the policy reveals that while [REDACTED] issued the policy under number [REDACTED], the premiums were paid to [REDACTED] under number

[REDACTED]. Reference to [REDACTED] and the number [REDACTED] is recorded on the [REDACTED] policy.

24. The Appellant's father, [REDACTED], was a civil engineer and had a life insurance policy commencing 1st August 1929 with an insured sum of US \$5,000 and an insurance term of 20 years. The monthly premium was paid from 1929 to May 1944, after which payment was interrupted by the war. The Appellant sets forth credibly the hardships and losses suffered by his family during the war. He contends that on this basis he and his family should be deemed "Holocaust Victims" because they suffered physically, mentally and financially. In referring to the definition of "Holocaust Victim" as contained in the ICHEIC Guidelines, however, the Appellant omits the requirement that such losses must be the "result of racial, religious, political or ideological persecution by organs of the German National Socialist Regime..." As the Appellant's family suffered the loss or deprivation of financial assets, which, were not the result of such racial, religious, political or ideological persecution by organs of the German National Socialist Regime or Hungarian authorities during the war, but represented the losses suffered by many independent of those factors, they do not fall within the definition of Holocaust Victim. Otherwise stated, the Panel accepts that the Appellant's family, like many others during World War II, suffered hardships and losses; but, these were the result of the political and economic developments in the last years of the war and in post-war Hungary and not the persecution that the ICHEIC process was created to address.
25. Accordingly, it is determined that the policyholder and/or beneficiary were not Holocaust victims within the meaning of Section 14 of the Agreement. The Appellant may not be compensated under the Agreement.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated this th day of April 2005

[REDACTED]