

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]

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], born [REDACTED] 1925 in Schonneburg (Berlin, Germany). He is the grandson of [REDACTED], nee [REDACTED] who was born [REDACTED] 1870 in Posen (Germany) and died in January 1944 in Haifa (Israel).
2. The Respondent is [REDACTED].
3. The Appellant submitted a claim form to the International Commission on Holocaust Era Insurance Claims (ICHEIC) dated 18th April 2000. The Appellant claims life insurance policies issued by [REDACTED] his grandmother, [REDACTED].

4. The ICHEIC submitted the claim to [REDACTED]. In [REDACTED]'s final decision letter dated 1st March 2004 it denies the claim because no evidence of a contractual relationship could be found with Mrs [REDACTED].
5. The Appellant submitted an appeal to the Appeals Office dated 25th October 2004, in which he sets out as the reason for the appeal that he had memories of his grandmother telling him she was insured.
6. The Appeals Office received the appeal form on 24th January 2005 and sent a copy to [REDACTED] on 25th January 2005.
7. [REDACTED] responded in a letter dated 3rd February 2005 and reiterated its denial of the claim.
8. On 4th March 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 this letter.
9. No request for an oral hearing was made. The appeal proceeded on a "*documents only basis*".
10. 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 Decision is made there

THE CLAIM

11. The Appellant's ICHEIC claim form dated 18th April 2000 (as set out in paragraph 3) provides the following information:
 - a) In section three concerning the name of the insurance company that issued the policy, the Appellant writes, "*I think the name is "[REDACTED]"*". The policy was purchased in Schonneburg.
 - b) In section four, the Appellant indicates that he is able to provide documents and/or statements and/or other information to substantiate his claim. He states these to be "*information in passport and other copies we already enclosed*".
 - c) In section five, he indicates that the policy in question was a life insurance policy and that the currency was "*Deutsch Reichsmark*". The date of maturity is stated to be "*till her death*".
 - d) In section six and seven the policyholder and insured person is identified as the Appellant's grandmother [REDACTED], nee [REDACTED].

- e) In response to section eleven for further information, the Appellant writes, “1) [REDACTED] lived with me and my parents (her daughter, [REDACTED]) ([REDACTED]) [REDACTED]). From 1935-1944 in our 2 bedroom apartment. From Age 65 til 74 years of age when she died, she was a widow. 2) Her money payments could have come monthly from, Holland Bank, Anglo-Palestine Bank, Barkly. 3) Her payments stopped at beginning of the war 1939 and after that I’ve continued to keep her with us in our family. 4) Family name “[REDACTED]” living in Berlin and Germany at least since 1750 – and were forced to leave because of situation at that time.”
12. Documentation and letters were submitted with his claim form confirming biographical information for himself and his family members. This documentation has been duly considered, but is not specifically relevant to the issue of insurance.
13. The Appellant sets out his reason for the appeal in his appeal form and states: “*It seems my memory is not so good after so many years but my dear dead grandmother always told us she was insured and in the beginning she arrived in Palestine around 1934 and still received her pension and in 1939 beginning of the war it stopped and we our family kept her. Please search perhaps it was another name of insurance company but I know she had insurance. All our family left all in Berlin. Our family tree goes back to 1775.*”
14. In a letter dated 15th March 2005 the Appellant writes, “*I searched again through my papers and documents and found the enclosed original evidently perhaps a copy of a letter sent by my departed grandmother, Mrs [REDACTED] in connection with her Reichsversicherung as you can see she received her pension from Germany until 1939, August.*”
15. The Appellant encloses a copy of an unsigned letter dated 22nd October 1939 to the Department of German Interests (in the Consulate of Switzerland for Palestine and Transjordan). The letter states, “*I receive a widow’s pension of approximately Israeli Pounds 2,500 per month from the Insurance Company for Employees of the German Reich in Berlin. I received the payment which usually comes by mail for the last time in August this year. I heard that you are considering the taking steps in favour of pensioners from German. As I have not transferred any property from Germany and do not own anything here I have to rely on my pension and find myself in serious financial difficulties.*”

THE INVESTIGATION AND DECISION BY THE RESPONDENT

16. [REDACTED]’s final decision letter dated 1st March 2004 states: “*The internal research in our records did, however, not show any success because of the lack of specific and detailed information, e.g. on the policy number. The only search criterion available to us were names mentioned by you. The research of our list of former insured persons and other persons who were parties to the contracts remained without any result. [...]. None of the relevant external archives contain any reference regarding this specific life insurance policy. On the basis of the information given in your claims-form and after intensive research of all relevant internal and external archives the existence of life insurance policy taken out by Mrs. [REDACTED] could not have been established even under the “Relaxed Standards of Proof” of the “Agreement”.*”
17. In a letter dated 3rd February 2005 in response to the appeal, [REDACTED] confirms their decision of 1st March 2004 and writes, “*Unfortunately, with respect to the claim at issue, no supporting evidence of a contractual relationship has either been provided by the claimant, or found by [REDACTED] or by the ICHEIC. Unfortunately no match occurred in our records due to the lack of detailed and specific information in the claims-form as to e.g. the policy number [...]. This is the reason why we have to confirm the rejection of this claim,*

and also the reason for the impossibility to produce to the Panel any document related to the claim at issue, because no such document is available to us.”

THE ISSUE FOR DETERMINATION

18. The main issue for determination in this appeal is whether the Appellant has met his burden of proof as set out in the Appeal Guidelines (Annex E of the Agreement), Section 17, which provides that to succeed in an appeal the Appellant must establish, 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 Section 14 of the 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.
19. 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 to establish 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 of this case that a policy was issued by the company.
20. There is no doubt that the Appellant as heir would be entitled to the proceeds of any life insurance policy and that all family members were Holocaust victims. The remaining and decisive question is whether the Appellant’s grandmother had a life insurance policy with [REDACTED].
21. It is concluded that the Appellant has a clear recollection of conversations during which his grandmother told him that she was insured (paragraph 13). Therefore, it is plausible on the anecdotal evidence presented [REDACTED] had a policy for life insurance. However, the Appellant has not established that the life insurance policy issued to his grandmother was from [REDACTED]. Indeed, throughout the claims and appeals processes the Appellant appears to acknowledge that she “thinks” that the issuing company was [REDACTED]. [REDACTED] and ICHEIC searched databases and no evidence linking the Appellant’s grandmother and [REDACTED] was found. There is no documentary or other anecdotal evidence submitted that shows it is plausible [REDACTED] was the insurance company that issued the policy to [REDACTED].
22. The letter dated 22nd October 1939, submitted by the Appellant during the appeals process, also evidences that pension and payments were stopped during August 1939 (paragraph 15). It is concluded that the Appellant’s grandmother had a pension with the Insurance Company for Employees of the German Reich in Berlin, and that the payments ceased by reason of the Holocaust. However, there is no connection between Insurance Company for Employees of the German Reich in Berlin and [REDACTED].

23. Taking into consideration the circumstances of this matter, it is recommended that Claim number [REDACTED] be referred to the Humanitarian payment process because it is plausible that the Appellant's grandmother had purchased insurance, but the identity of the issuing insurance company is not known.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated this 22nd day of August 2005

[REDACTED]