

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 [REDACTED] (formerly [REDACTED]) was born on [REDACTED] 1931 in Budapest (Hungary). His father [REDACTED] was born on [REDACTED] 1900 in Budapest and died in Budapest on 1st May 1975. His mother [REDACTED] (née [REDACTED]) was born on [REDACTED] 1911.
2. The Appellant submitted a Claim Form dated 12th February 2002 to the International Commission on Holocaust Era Insurance Claims (ICHEIC) in which he claims that

- “[REDACTED] Insurance Company Hungarian Branch” issued a life insurance policy to his father
3. The ICHEIC forwarded the Claim Form to the Respondent [REDACTED] Life Insurance Company (“[REDACTED]”)
 4. In its provisional decision letter dated 12th February 2003 [REDACTED] stated: “As a result of our search in our own archives, we must realise that there is no evidence for the assumed contractual life insurance relationship. In other words: there is and never has been any insurance contract between your relatives and our company”.
 5. By letter dated 15th July 2004 [REDACTED] informed the Appellant of his right to appeal.
 6. The Appellant submitted an Appeals Tribunal appeal form on 25th October 2004. The Appeals Office advised him by letter dated 25th November 2004 that he had submitted the incorrect appeal form and enclosed the correct form.
 7. The Appeals Office received the correct form on 16th December 2004 and forwarded a copy of it to [REDACTED] that same day.
 8. On 24th 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 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.
 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 dated 6th July 2004 this appeal was assigned to [REDACTED].
 11. The seat of the Appeals Panel is Geneva, Switzerland and the Panel Decision is made there.

THE CLAIM

12. 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 the insurance company as “[REDACTED] Insurance Company, Hungarian branch.”
 - b) In section five he identifies the type of policy as a life insurance policy issued in 1935 and maturing in 1945. The amount insured is stated as 4,800 Pengö. The Appellant states that the premiums were paid monthly and the amount of the premium was 15,000. The premiums were paid until 1944 and stopped: “Due to the II World War!!”
 - c) The policyholder, insured and beneficiary is identified as the Appellant’s father, [REDACTED], (formerly [REDACTED]).

- d) In section nine he states that he has not participated in any compensation proceedings for this claim because (translation), “*It has only become topical.*”

13. The Appellant submitted copied documents, including:

- a) a Certificate of Deportation of the Appellant [REDACTED]; and,
- b) a letter dated 28th January 2002 confirming that [REDACTED] was Jewish and that his surname at birth was [REDACTED].

14. The Appellant also submitted biographical information such as his birth certificate, his father’s birth and death certificates and his parents’ marriage certificate.

THE INVESTIGATION AND DECISION BY [REDACTED]

15. [REDACTED] stated in its provisional decision letter dated 12th February 2003: “*You alleged that a life insurance policy was purchased from [REDACTED] Insurance Company Hungarian branch. [...] However, you were unable to support your statement or otherwise furnish any type of evidence with regard to [REDACTED] Life concerning this insurance policy. You did not explain either the inconsistency between the sum insured and the amount of the monthly payments (sum insured: 4,800 and monthly payments: 15,000). Being a named insurer, we searched immediately in our own archive sites though it is almost impossible that the alleged policies might have been purchased from [REDACTED] life insurance. [REDACTED] Life insurance was at no time licensed in Hungary and thus it has not had agencies in Hungary or has ever conducted business in your country. Given these facts, how could we have been able to sell the alleged insurance policies in the past? Nevertheless, we searched through all our company archives for the following names and information:*

[REDACTED] (and [REDACTED]) [REDACTED] (and [REDACTED]) (your father)

Born [REDACTED], 1900 in Budapest, Hungary

[REDACTED] (and [REDACTED]) (your mother)

Born [REDACTED] 1911

[REDACTED] (and [REDACTED]) (your grandfather)

[REDACTED] ([REDACTED]) (your grandmother)

Unfortunately, we did not find any insurance relationship of [REDACTED] Life to one of the named persons on our internal database. Therefore, we must deny your claims and we hope that you will understand our decision.

16. [REDACTED] sent the Appellant a final decision letter on 15th July 2004 informing him of his right to appeal.

17. In a letter in response to the appeal process dated 5th January 2005, [REDACTED] wrote, “*We have nothing to add to our final decision letter of February 12, 2003 which we enclose together with our letter to the claimant dated July 15, 2004. We do not have any more correspondence in respect of this claimant.*”

THE ISSUES FOR DETERMINATION

18. The main issue for determination in this appeal is whether the Appellant has met the 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 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
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 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 of this case that a policy was issued by the company.
20. There is no doubt that the Appellant and those of her family living at that time were Holocaust victims and that the Appellant could be entitled to the proceeds of insurance policies which were confiscated or taken away by other means.
21. However, the Appellant has not met his burden of proof that it is plausible that [REDACTED] was the company that issued a life insurance to the Appellant’s father. The Appellant has not provided any corroborative evidence such as testimony from third parties or documentary evidence. Indeed, [REDACTED] states it had no branches or subsidiaries in Hungary, and, consequently, has never engaged in the insurance business there. Moreover, the great discrepancy between the premium asserted of 15,000 Pengo and the alleged face amount of the insurance policy of 4,800 Pengo would reflect complete uncertainty with respect to any detail relating to any insurance policy. Taking into consideration the evidence before me, I must reject the Appellant’s claim.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated: 5th May 2005

[REDACTED]