

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]
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 Dr [REDACTED], née [REDACTED], was born on [REDACTED] 1958 in Bratislava, then Czechoslovakia. She is the granddaughter of [REDACTED], who was born in Olomovc, now Czech Republic, on [REDACTED] 1886 and died on 17th September 1941 at the Auschwitz concentration camp.
2. The Respondent is [REDACTED] (“[REDACTED]”)

3. The Appellant submitted a claim form dated 26th June 2000 to the International Commission on Holocaust Era Insurance Claims (ICHEIC) in which she claims the proceeds of a life insurance policy taken out by her grandfather [REDACTED].

Together with her claim form the Appellant submitted a copy of a court ruling regarding the estate of her grandfather dated the 14th August 1950. Next to other insurance policies, the ruling orders for the proceeds of insurance policy number [REDACTED] with the company “[REDACTED]” among others to be released to the legal heirs of [REDACTED].

4. By letter dated 29th April 2005 [REDACTED] declined payment for insurance taken out with its company. It informed that [REDACTED] was founded in 1987 and that it was not responsible for the policy contracted in Czechoslovakia. It stated that it had searched all available documentation but that it was unable to find an insurance contract for her grandfather. It pointed out, that the Appellant’s claim might be eligible under the rules of the “National Fund of the Republic of Austria for Victims of National Socialism”. It informed about the Austrian General Settlement Fund and provided its address in Austria.
5. With her Appeal dated 9th May 2005 against [REDACTED]’s decision, the Appellant claimed that [REDACTED] was responsible for insurance policy number [REDACTED] because [REDACTED] was a legal predecessor of [REDACTED].
6. In response to the appeal by letter of 1st June 2005, [REDACTED] pointed out that it had declined the claim out of lack of any evidence indicating an insurance contract with the Appellant’s grandfather.

Furthermore, [REDACTED] confirmed its decision to decline the Appellant’s claim because, it states, it was not responsible for insurance policies taken out with [REDACTED] because [REDACTED] had not bought [REDACTED] but only the German asset accounts of the German “[REDACTED]” branch. The [REDACTED] branch had belonged to the (legally separate) company “[REDACTED]”, incorporated in Vienna. Since the insured sum of the insurance contract was in Czech Crowns, the policy must have been issued in Vienna or by the Czechoslovak branch in Prague. Therefore the Austrian General Settlement Fund - as set out in their previous letter - were responsible for the claim which did not fall under the Agreement between the ICHEIC, the German Foundation and the [REDACTED].

7. 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 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. The seat of the Appeals Panel is Geneva, Switzerland, and the Decision is made there.

CONCLUSIONS OF LAW

8. The Appellant has not met her burden of proof to establish a valid claim in accordance with Section 17 of the Appeal Guidelines; she does not have a valid claim against [REDACTED].

According to Section 17.2.1 of the Appeal Guidelines, to succeed in an appeal, the claimant must establish, based on the Relaxed Standards of Proof that it is plausible that the claim relates to a life insurance policy issued by or belonging to a German company.

The Appellant provided evidence of an insurance policy taken out by her grandfather with the insurance company “[REDACTED]” in form of the court ruling dated 14th August 1950. Because the insurance was taken out in the currency of Czech Crowns, it is plausible that the policy must have been taken out with [REDACTED] Insurance either in Vienna or in Prague. The Austrian and Czech branches of [REDACTED] are not predecessors of [REDACTED], which is incorporated in Germany. [REDACTED]’s predecessor was the German subsidiary of “[REDACTED]” *only*; only those assets were taken over by [REDACTED], not the Austrian assets of “[REDACTED]” to which [REDACTED] Insurance belonged. It is therefore accepted that [REDACTED] is responsible *only* for policies taken out with the German company “[REDACTED]”.

9. [REDACTED]’s denial of the claim is therefore in accordance with the rules of the Agreement and the Appeal Guidelines, which covers only policies for which German companies are responsible.
10. However, there is no doubt that the Appellant’s grandfather was a Holocaust victim and that the Appellant would be entitled to the proceeds of any insurance policies as either named beneficiary or as heir. The Appellant’s family suffered greatly at the hands of the National Socialist Regime. In fairness to the Appellant, the case will be referred to the ICHEIC Claims team so that the matter may be processed in Austria. If this processing is not deemed possible, then it is recommended that the Appellant should be considered eligible for a humanitarian payment under the relevant ICHEIC procedures pursuant to Section 8A2 of the Memorandum of Understanding.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated this 19th day of January 2006

[REDACTED]