

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 NUMBERS: [REDACTED]&
[REDACTED]

BETWEEN

[REDACTED]

APPELLANT

AND

[REDACTED]
& [REDACTED]

RESPONDENTS

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], submitted a claim form to the ICHEIC process on 19th January 2000. He claimed that his father, [REDACTED], Director of the Frankfurt branch of the Deutsche Bank, had purchased insurance policies prior to the Holocaust and that they were forfeited when his parents emigrated to the United States of America in 1938 to escape persecution from the Nazis. ICHEIC set up claim numbers [REDACTED] and [REDACTED] concerning policies numbered [REDACTED] and [REDACTED] respectively.

2. [REDACTED] sent the Appellant a provisional decision letter on 8th June 2001 stating that it had searched its records and had found a register card for [REDACTED], but there was no corresponding file. This register card had no specific details about the sum of the policies - it only stated the policyholder's personal details and application numbers. [REDACTED] confirmed it had contacted various German State Compensation and Restitution Authorities and specifically the Compensation Authority "*Regierungspräsidium Darmstadt*" who had found correspondence dated 1965 concerning a claim for [REDACTED] and policy numbers [REDACTED] and [REDACTED]. There was no further information, and it was assumed that the compensation claim was not paid out. However, declarations of assets dated 1st January 1935 and 25th August 1938 were submitted by the Appellant, but there was no reference to [REDACTED] life insurance policies in this documentation. Consequently, [REDACTED] assumed that the policies had been paid out because the policy numbers were not in its 1941 registers or reserve register.
3. [REDACTED] sent a final decision letter dated 21st December 2004 and explained that it had been recently agreed that all register entries would be offered humanitarian payments by the [REDACTED] on the basis that the policies had been paid into blocked accounts, and this was relevant to policies [REDACTED] and [REDACTED]. Consequently, on 21st December 2004 the [REDACTED] offered the Appellant the sum of US\$4,000 for each policy because there was no information about the value of either policy.
4. The Appellant submitted an appeal form to the Appeals Office and confirmed his wish to appeal both [REDACTED] offers totalling US\$8,000. During the appeals process the Appellant submitted copies of his father's handwritten ledger from 1931 to 1936 totalling 24 pages that evidences life insurance premium payments to [REDACTED]. The Appellant submits that the true value of the policies could be reconstructed or extrapolated by an actuary from the higher than average premium payments in the ledger. [REDACTED] submit that there is not enough information for its actuaries to calculate the actual value of the policies from the premium payments "...because the agreed duration of the policies is unknown" (letter dated 10th November 2005). Consequently, this Decision is limited to determining, in accordance with the ICHEIC Valuation Guidelines, the value of the two policies which were purchased by [REDACTED].
5. 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 of 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 this Final Decision is made there.

VALUATION

6. Under the Agreement (see paragraph 5) the valuation of policies has to be based solely on the Valuation Guidelines which form Annex D of the Agreement. Step 1 of Schedule 2 of the Rules.
7. It is plausible that the Appellant's father purchased higher than average life insurance policies, as reflected in his ledger entries and his employment as Director of Deutsche Bank. However, the Appeals Panel can only analyse the evidence presented and in cases, in which, as here, the amount of a policy cannot be determined, Section 7.1 of the Valuation

Guidelines requires that the offer be based on a multiple of three times (3x) the average value for policies in the respective country as shown in Schedule 3 (Section 7.1 of the Valuation Guidelines). The Appeals Panel is bound by the Valuation Guidelines and unfortunately can make no exceptions.

8. For policies issued in Germany (within the boundaries of 1937) and denominated in German currency, for which the Federal Republic of Germany established programs of compensation after the war under the Bundesentschädigungsgesetz (BEG) or other programmes of compensation or restitution, the company must assess the claim (both the base value and the valuation up to 1969) as if it had been submitted to the BEG, using the same methods of valuation, and apply a multiplier to this value of 8X.
9. According to Schedule 3 of the said Valuation Guidelines the average value of life insurance policies in Germany is Reichsmark 841. Three times RM 841 gives RM 2,523.00. This amount then, following the currency changes prescribed by law in 1948, must be converted from RM into DM by using the converting factor RM 10 = DM 1, which gives the amount of DM 253.30. That is the value to the end of 1969. To update the values for the end of the year 1969 to the end of the year 2000, pursuant to Step 2 No. 3 of Schedule 2, the 1969 value must be multiplied by 8. Eight times DM 253.30 is DM 2,018.40.
10. For offers made from January 2001 the value must be updated by agreed multipliers as shown in Schedule 2 (Section 2.2 of the Valuation Guidelines). According to Step 3 of Schedule 2 of the said Annex, additions must be made to the value up to the end of 2000 for the subsequent years. These interest rates have been agreed in the Valuation Guidelines for 2001 and 2002 and have been fixed for 2003 and 2004 by a Memorandum of ICHEIC after consultation with the Foundation and the [REDACTED] as the other parties to the Agreement (2001: 5.4%; 2002: 5.0%; 2003: 4.75%; and 2004: 5%; according to the month, in which the decision is made, plus two months, i.e. 14/12 of 5%), which leads to the amount of DM 2,127.39 for 2001, DM 2,233.76 for 2002, DM 2,339.86 for 2003, and DM 2,476.34 for 2004 which results in €1,266.13 on the basis of an exchange rate of DM 1.95583 = €1.00. A conversion of €1,266.13 to US dollars is US \$1,537.91 on the basis of an exchange rate of 1 Euro = 1.24165 US dollars.
11. Notwithstanding the above calculation, however, pursuant to Section 2.3 of the Valuation Guidelines each Claimant shall receive in respect of any valid claim on a policy issued in Germany by a German company a minimum payment of at least US\$4,000 if the Claimant was a victim of the Holocaust.
12. The offers made to the Appellant totalling US\$8,000 for two policies by the [REDACTED] are in accordance with the Valuation Guidelines.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated: 9th January 2006

[REDACTED]