

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]
[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], née [REDACTED]. She was born on [REDACTED] 1923 in Berlin, Germany. She is the daughter of [REDACTED], born on [REDACTED] 1892 in Berlin. He passed away on 15 April 1943 in the Auschwitz concentration camp. The Appellant’s mother [REDACTED], née [REDACTED] and the Appellant’s two sisters also died in Auschwitz.

2. The Respondent is [REDACTED] (“[REDACTED]”) as the successor of [REDACTED] (“[REDACTED]”).
3. The Appellant submitted her claim form dated 20 August 2003 to the International Commission on Holocaust Era Insurance Claims (ICHEIC) in which she states that her father had taken out insurance with [REDACTED].

The Appellant submitted copies of her passport and birth certificate together with her claim form and the following relevant documents:

- (i) a letter dated 27 October 1953 from the Association of Life Insurance Companies stating that based on its research it had been able to find the insurance policy number [REDACTED]/[REDACTED] which, the Association further states, had already lapsed;
 - (ii) a letter from [REDACTED] to the Appellant dated 10 November 1953 regarding insurance policies [REDACTED] and [REDACTED]. The letter states that the insurance policies had been converted into a paid up status since 1 June 1930. As a result the paid up value had amounted to GM 2,094. However, both contracts had lapsed because they had been surrendered. [REDACTED] adds that no further insurance contracts had been taken out with either of the Appellants parents.
4. By decision letter of 14 January 2005, [REDACTED] confirmed [REDACTED]’s previous findings contained in the letter of 10 November 1953 (paragraph 3 (ii)) and added that both policies taken out by the Appellant’s father had commenced on 1 June 1926 but were surrendered in 1932. This was evidenced by the historical statistic cards for the insurance policies showing the notation “R. 32”, which stood for the German word “Rückkauf” and meant surrender of the policies in the year 1932. The surrender value had been paid out to the policyholder. No further insurance contracts were found in the Appellant’s or her parent’s name.

[REDACTED] included copies of the name card for [REDACTED] and of the statistic cards for policies with the numbers [REDACTED] and [REDACTED]. Both statistic cards show the notation “R.32” next to the printed word “Bemerkungen” (translates to “notes”) on the right hand side. On the left hand side the notation “W 78/43” is added to the card for policy number [REDACTED] and the crossed out notation “W 78/42” on the card for policy [REDACTED]. In the field below, the notations “W 78/43 and W 78/42”, the words “1 GM=10/42 US\$” are written on the statistic cards.

5. In her appeal dated 21 April 2005 against [REDACTED]’s decision, the Appellant points out that the statistic cards show further numbers in the field in the lower right hand corner of the card. The Appellant is of the opinion that the figures “W 78/43 and W 78/42” referred to notations added to the cards in the years 1943 and 1942. She claims that the contracts therefore could not have been surrendered as early as the year 1932.
6. In response to the appeal dated 31 May 2005, [REDACTED] confirmed its previous statements explaining further that the notation “R.32” was the *technical* German term for “repurchase” (“Rückkauf”) of the policy.

Notations such as “W 78/43 and W 78/42” on the other hand were mathematical records and would not refer to years. The notation “1 GM=10/42 US\$” appearing immediately below the words “W 78/43” and “W 78/43” referred to the fixed value of Goldmark as a result of the inflation that took place after World War I in Germany, because one Goldmark had been valued at 10/42 US\$. The Goldmark notation served to produce a relation between devalued German money and foreign currencies.

With this letter, [REDACTED] provided documentation referring to another [REDACTED] customer who had taken out insurance policy number [REDACTED] [...]. The documentation contains a copy of a statistical card for that contract which shows the notation "R.1.12.38".

[REDACTED] provides a variety of further documents referring to this sample insurance contract and the application of the insured to repurchase his or her insurance policy.

In particular, a document dated 16 December 1938 for policy number [REDACTED] [...] contains next to a variety of notes the notation "Ab 1.12.38 durch Rückkauf erloschen." (translates to "lapsed through repurchase since 1 December 38").

7. 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 in July 2004, this appeal was assigned to [REDACTED].

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

CONCLUSIONS OF LAW

8. It is not disputed that the Appellant's father had taken out insurance policies number [REDACTED] and [REDACTED] with [REDACTED]'s legal predecessor [REDACTED].

However, the Appellant does not have a valid claim against [REDACTED] because the insurance contracts terminated in the year 1932.

This is evidenced by the handwritten note on the copies of the register cards that [REDACTED] had provided with its letter of 14 January 2005 (see above para. 4). [REDACTED]'s submission's that the note "R.32" refers to the repurchase of the policies in the year 1932 is convincing and supported by the letters from [REDACTED] dated 10 November 1953 and the letter from the Association of Life Insurance Companies dated 27 October 1953.

Furthermore, the example provided by [REDACTED] of another insurance contract [REDACTED] [...] supports [REDACTED]'s claim that the notation "R.32" does refer to the technical term of "repurchase" ("Rückkauf") in the year 1932. The documentation [REDACTED] provided about this sample contract shows that the contract had been repurchased in 1938 by the insured. The statistical card for that contract contains the notation "R.1.12.38" similar to the notation on the statistic card for the insurance contracts in issue.

9. [REDACTED]'s submission, that the notations "W 78/43 and W 78/42" referred not to years but to mathematical calculations is plausible.
10. Because the insurance contract was terminated in 1932 before the start of the Holocaust in Germany in the year 1933 (Schedule 1 to the Valuation Guidelines), [REDACTED] has a valid defence within Section 17.3.1 of the Appeal Guidelines.

[REDACTED]'s decision must therefore be confirmed.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated this 26th day of January 2006

[REDACTED]