

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 [REDACTED] was born on [REDACTED] 1927 in Dresden, Germany. He is the son of [REDACTED] who died on the 27th October 1937 in Beuthen, Germany (date and place of birth unknown), and [REDACTED], née [REDACTED], who was born on [REDACTED] 1887 in Kattowitz, Silesia, and died in 1943 in Auschwitz. The Appellant’s brother, [REDACTED], was born on [REDACTED] 1925 in Dresden, Germany, and died on 30th April 1994 in Stockholm, Sweden. The two brothers left Germany in 1939 and lived in a children’s home in Sweden.

2. The Respondent is [REDACTED] ([REDACTED]) as the successor company of [REDACTED].
3. The Appellant submitted a claim form to the International Commission on Holocaust Era Insurance Claims (ICHEIC) on 11th April 2000 claiming a life insurance policy issued to his mother by an unknown company.
4. [REDACTED] declined the claim on 2nd June 2005. It stated that it had found evidence of an application for insurance by the Appellant's father with [REDACTED], but that the application was declined and that the policy was never issued.
5. The Appellant submitted an appeal to the Appeals Office dated 7th June 2005. He stated that his father's application was declined for religious or political reasons because his father was Jewish.
6. The Respondent responded to the appeal on 18th July 2005 confirming its decision and requesting that the appeal be dismissed.
7. On 10th August 2005, the Appeals Office informed the parties that the appeal would be decided on a "*documents only*" basis unless it received a request from either party for an oral hearing within 14 days of receipt of this letter.
8. On 16th August 2005 the Appellant requested an oral hearing. The oral hearing took place on 28th November 2005. The participants were [REDACTED], the Appellant [REDACTED], Ms [REDACTED] from [REDACTED] and Ms [REDACTED] from the Appeals Office.
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.

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

10. The Appellant submitted an ICHEIC claim form dated 11th April 2005 claiming a life insurance policy issued to his mother [REDACTED] in Beuthen, Germany. He named his mother as the policyholder and his brother and himself as the insured persons and beneficiaries. The Appellant indicated that he had participated in previous German compensation procedures and quoted his pension number.
11. The ICHEIC processed the Appellant's claim form as an unnamed company claim and submitted the claim to the Respondent.
12. [REDACTED] found an entry for the Appellant's father in the archives of [REDACTED], but rejected the claim on the basis that the application for insurance was declined. Consequently, the Appellant submitted an Appeal Form dated 7th June 2005 stating: "*As you can see by looking at the copy of the [REDACTED] insurance certificate number [REDACTED], my father [REDACTED] wanted to purchase a life assurance policy but this was rejected because he was a Jew. That was how life was in Germany between 1932-1945.*"

Why else would the insurance have been rejected? [...]. My father [REDACTED] fought for his country – Germany – in the 1914-1918 World War and he was awarded the Iron Cross by Hindenburg and the criminal Hitler during the 1933. This is the same year as that printed on the copy from [REDACTED].”

13. In a letter dated 8th August 2005 the Appellant further states: *“I...do not find [[REDACTED]’s] explanation a satisfactory reason to decline life insurance in my father’s name. [...] [REDACTED], in their letter are unable to give the reason for my father’s policy application being declined although in most cases they say refusal is on medical grounds. This could not be so in my father’s case as he regularly played sport two to three times a week during the 1932-1933 period. Mrs [REDACTED], for [REDACTED], states that ‘for sure that before the takeover of the Nazis the policies were not refused because of religious or political reasons’. My father’s policy application was refused on 23 January 1933 and the Nazi party came to power on 30 January 1933. I cannot believe that Ms [REDACTED] could be so naïve as to believe that Hitler and the Nazi Party did not exert great influence over Germany seven days before officially taking power [...]. In view of this and the fact that [REDACTED] admit they know on no reason for my father’s policy application being declined I wish you to continue to pursue my claim with all diligence.”*
14. The Appellant reiterated these arguments in the oral hearing of 28th November 2005. He explained that his father was in good health during his lifetime, so there was no reason to suggest that his application would have been declined for medical reasons.
15. The claim and appeal files contain statements by the Appellant detailing his family’s history and persecution during the Holocaust. In a statement dated 9th March 1956 he writes in German: *‘My father died in Beuthen on 27th October 1937 as a consequence of a war injury that led at the same time to heart problems.’*

THE INVESTIGATION AND DECISION BY THE RESPONDENT

16. [REDACTED] declined the Appellant’s claim on 2nd June 2005 stating: *“based on the information you provided in the application forms, intense researches were done in all the government and internal company archives for clues to the existence of life insurance policies for the following persons: [REDACTED], maiden name [REDACTED], [REDACTED] ([REDACTED]) [REDACTED], [REDACTED] ([REDACTED], [REDACTED]) [REDACTED] and yourself [REDACTED] ([REDACTED], [REDACTED]) [REDACTED]. In accordance with the arrangements under the “Agreement”, we found a name card from [REDACTED] in our archives with the Insurance Certificate Number [REDACTED] issued in the name of your father, Mr. [REDACTED]. The entry “rejected” proves that Mr. [REDACTED] applied for a life insurance policy with [REDACTED], but that this application was rejected. The date of “23 January 1933” next to this entry refers to the date of the rejection. Under the guidelines set forth in the “Agreement” for the evidence that we follow in making our decision, any documents found must be classified as sufficient for proving the existence of life insurance policies, so long as they are credible. The same also applies to references that prove payment, redemption, lapse or as in this case, the lack of approval of an insurance policy. Regrettably further searches relating to the other family members you mentioned in your application were unsuccessful. We hope that you can understand our decision that we are not able to offer any compensation payment under the given circumstances.”*
17. [REDACTED] provided a copy of the name card from [REDACTED] with its decision letter. The name card contains the stamp: *“Declined: 23rd January 1933”*.
18. [REDACTED] responded to the appeal on 18th July 2005 stating: *“The application of [REDACTED] policy no. [REDACTED] for the Claimant’s father, Mr [REDACTED] was*

refused on January 23rd 1933. This means that policy no. [REDACTED] has not come into effect and that no premiums have been paid. This refusal of policy no. [REDACTED] ...was made before the Nazis came into power on January 30th 1933 in Germany. We do not know why Mr [REDACTED]'s policy was refused because it is not recorded on the name card. In most cases policies were refused in medical reasons. But it is for sure that before the takeover of the Nazis the policies were not refused because of religious or political reasons. Claimant's objections are not adequate to change our declining decision dated January 14th, 2005."

19. Ms [REDACTED] reiterated these arguments in the oral hearing of 28th November 2005. She brought [REDACTED] attention to the fact that [REDACTED] issued other policies to Jewish applicants after 1933.

THE ISSUES FOR DETERMINATION

20. The issue for determination in this case is whether Mr [REDACTED]'s application for life insurance with [REDACTED] was declined on 23rd January 1933 for religious or political reasons. [REDACTED] has reviewed all the evidence and takes note of the Appellant's arguments that his father enjoyed good health during his lifetime. Mr [REDACTED] apparently ran a successful business, played sport and had a high standard of living.
21. However, notwithstanding this, there is insufficient evidence to support the contention that the application for insurance was declined for religious reasons. The entry in [REDACTED]'s name card register states only that the application was declined. It provided no indication as to the reason for the decision. Although [REDACTED] acknowledges that the Nazis were influential in German economic and political affairs prior to their formal ascent to power in 1933, the Appellant's arguments cannot be accepted in the absence of further evidence. The Appellant submitted a statement in which he mentioned that his father died in 1937 as a consequence of a war injury that had also caused heart problems. It is therefore indeed plausible that [REDACTED] declined Mr [REDACTED]'s application for medical reasons. Accordingly, the appeal must be dismissed.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

[REDACTED]