

**THE APPEALS PANEL**

Established under an Agreement dated 16<sup>th</sup> 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

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**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] 1928 in Vienna, Austria. He is the son of [REDACTED] and [REDACTED], née [REDACTED]. His maternal grandfather [REDACTED] was the half-brother of [REDACTED] ([REDACTED], [REDACTED]).

[REDACTED] was born in Czechoslovakia and died on 15<sup>th</sup> April 1943 in Osviecim, Poland. His son, [REDACTED], was born on [REDACTED] 1896 in Czechoslovakia and died on 31<sup>st</sup> May 1943 in Osviecim. Both were self-employed at the firm [REDACTED] & Son, Hardware Wholesale in Mlada Boleslav, Czechoslovakia.

2. The Respondent is [REDACTED] ([REDACTED]) as the legal successor to [REDACTED].
3. The Appellant submitted an ICHEIC claim form and a Holocaust Claim Questionnaire claiming policies issued to [REDACTED] and [REDACTED]. This included a claim for a policy issued to [REDACTED] by [REDACTED] for Ks 185,835.

As supporting evidence, the Appellant submitted a copy of a letter dated 25<sup>th</sup> November 1947 to his mother from [REDACTED], Attorney at Law. This letter details the estates of [REDACTED] and [REDACTED] and mentions the [REDACTED] policy for Ks 185,835.

4. This claim was processed under claim number [REDACTED] and forwarded to the Respondent for investigation.
5. [REDACTED] declined the claim on 26<sup>th</sup> April 2005 stating that it had searched its archives and the German archives of [REDACTED], but had been unable to find any evidence of the claimed policy. It stated:

*"[REDACTED] ([REDACTED]) [REDACTED] had its headquarters in Berlin. It was a branch of [REDACTED], Vienna. Unfortunately in April 1945 the German [REDACTED] building in Berlin was bombed and burnt out almost totally. Therefore no match occurred in our records.*

*However, the information and documents you made available to us, may sustain your claim under the rules of the "National Fund of the Republic of Austria for Victims of National Socialism".*

[REDACTED] referred the Appellant to the General Settlement Fund (GSF) which, it stated, is responsible for policies issued by [REDACTED] ([REDACTED]) [REDACTED], especially those in Austria and the former Czechoslovakia.

6. The Appellant appealed this decision on 4<sup>th</sup> May 2005 stating:

*"I am the sole heir of Mr. [REDACTED] who was killed in the Holocaust. Mr [REDACTED] had considerable wealth which included...bank accounts and life insurances...Specifically numerous insurance policies are spelled out in a lawyer's letter to my deceased mother [REDACTED] (maiden name [REDACTED]) dated Nov 25, 1949 making her an heir to the estate. In this letter it mentions specifically a policy made out by the [REDACTED] Insurance Company in the amount of 185.835 K. Based on this information... [REDACTED] and [REDACTED] insurance companies made awards to me. Stating that [REDACTED] itself did not issue any life insurance before 1987 may be true. But when [REDACTED] acquired [REDACTED] it acquired its assets as well as its liabilities..."*

7. [REDACTED] confirmed its decision in a letter to the Appeals Office dated 1<sup>st</sup> June 2005 stating:

*“Even though the claimant refers to a “policy by [REDACTED]...in name of [REDACTED] for K 185,835, no benefits”, the claim had to be rejected from our point of view.*

*...Since 1987 [REDACTED] Life Insurance is the legal successor, but only of the German [REDACTED]. So we only can check insurance policies related to the German [REDACTED]...The [REDACTED] branch always belonged to the [REDACTED] in Vienna, except to the Slovakian [REDACTED] branch, which in 1941 had to be transmitted to the “[REDACTED]...”*

*Based on the information that the claimant has provided in the claims, it is obvious that in this case there is no relation to the German business of [REDACTED]. Instead the policies must have been issued from [REDACTED] in Vienna or the Czech [REDACTED] ([REDACTED]) branch in Prague, because the insured sum is in Czech Crowns (KC). Therefore not the German Foundation has to deal with the claim. The Austrian fund is responsible.”*

8. On 16<sup>th</sup> December 2005, the appeal was officially stayed until further notice pursuant to Article 3.7 of the Appeal Guidelines (Annex E to the Agreement). The parties were advised that [REDACTED]’s responsibility for [REDACTED] policies was the subject of ongoing discussions between ICHEIC and [REDACTED].
9. 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 16<sup>th</sup> 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

10. The Appellant claims life insurance policy number [REDACTED] issued to [REDACTED] by [REDACTED] (“[REDACTED]”) insurance in Prague. This company is neither identical with [REDACTED], which was founded in 1987 and is incorporated in Germany nor is [REDACTED] its predecessor in law. [REDACTED]’s predecessor was the German subsidiary of “[REDACTED]” which was a *separate* entity from the insurance company [REDACTED] “[REDACTED]” in Prague. It is accepted that [REDACTED] is responsible *only* for policies taken out with the German company “[REDACTED]”.
11. [REDACTED] has searched all available and relevant archives for an insurance contract with [REDACTED], including those of “[REDACTED] ([REDACTED]) Insurance” in Germany. Furthermore, it searched public archives including those of the German restitution authorities. However, [REDACTED] was unable to find any evidence indicating an insurance contract with [REDACTED]. There is therefore no evidence supporting a finding that an insurance policy was issued by the legal predecessor of [REDACTED].

**12.** In fairness to the Appellant, this case will be referred to the ICHEIC Claims team so that the matter may be processed in Austria by the General Settlement Fund, since [REDACTED] (“[REDACTED]”) insurance in Prague was directed from Austria. If this processing is not deemed possible, it is recommended that the Appellant 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:**

1. The appeal is dismissed.
2. The claim shall be referred to the Austrian General Settlement Fund for processing.

Dated this 26<sup>th</sup> day of January 2006

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[REDACTED]