

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]

THE APPEALS OFFICE, PO BOX 18230, LONDON EC1N 2XA, UNITED KINGDOM

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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] 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 15th April 1943 in Osviecim, Poland. His son, [REDACTED], was born on [REDACTED] 1896 in Czechoslovakia and died on 31st 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 25th 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 26th 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 4th 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 1st 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 16th 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 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

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 26th day of January 2006

[REDACTED]