

**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] ([REDACTED]) was born on [REDACTED] 1942 in Sofia, Bulgaria and presently resides in Israel. The Appellant is the son of [REDACTED] ([REDACTED]) who was born on [REDACTED] 1885 in Sofia, Bulgaria and died on 25<sup>th</sup> May 1956. The Appellant and his family are Holocaust survivors.
2. The Respondent is [REDACTED] ([REDACTED]).
3. The Appellant received the sum of US\$12,201.80 for [REDACTED] policy number [REDACTED] (Claim number [REDACTED] and Appeal number [REDACTED]). However, this is not the subject of this appeal. The Appellant is claiming in this appeal his father’s life insurance policy number [REDACTED] with [REDACTED]. There has been

confusion regarding the processing of this claim number [REDACTED] for policy number [REDACTED] because it was thought to be identical to claim number [REDACTED] regarding policy number [REDACTED]. No Claim form has been received by ICHEIC specifically for policy number [REDACTED]. The Arbiter is of the opinion, however, that the failure to file a specific claim form for policy [REDACTED] should have no detrimental impact on the Appellant's claim. In response to the Appellant's letter dated 11<sup>th</sup> May 2003, ICHEIC processed the new claim and this claim is now being appealed.

4. The ICHEIC submitted the claim to [REDACTED]. [REDACTED] states in its decision letter dated 13<sup>th</sup> June 2005 that it had been unable to establish evidence of a contractual relationship with the Appellant's father, or any family members, for policy number [REDACTED]. [REDACTED] states:  
*"In the correspondence relating to your father's insurance policies we had 20 years ago with you and subsequently with Mr [REDACTED], lawyer and notary, the policy No. [REDACTED] was not mentioned."*
5. The Appeals Office received the Appellant's appeal form and documentation on 14<sup>th</sup> September 2005. The Appellant submitted a letter dated 21<sup>st</sup> October 2004 from the Bulgarian DZI Ltd confirming that policy number [REDACTED] in the amount of 100,000 Lev was entered into the register of [REDACTED] and expired in February 1953. A copy of this one page handwritten [REDACTED] register shows that 65 policies were recorded. On the eleventh and twelfth lines from the top of the document there are two entries in the same handwriting – [REDACTED] and [REDACTED] which appear to be the column for policy numbers with the figures 100,000 in the final column for each policy, which is presumably the value of each policy. There are no policyholder names on this document, or other forms of identification.
6. 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 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 6<sup>th</sup> July 2004 this appeal was assigned to [REDACTED].

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

#### **THE ISSUES FOR DETERMINATION**

7. The issue for determination is whether the Appellant's father had purchased insurance policy number [REDACTED] from [REDACTED] and whether the Appellant has met the burden of proof as set out in the Appeal Guidelines (Annex E of the Agreement), Section 17, which provides that to succeed in an appeal the Appellant must establish, based on the Relaxed Standards of Proof, that it is plausible:
  - 17.2.1 that the claim relates to a life insurance policy in force between 1<sup>st</sup> January 1920 and 8<sup>th</sup> May 1945, and issued by or belonging to a specific German company (as defined in the Glossary to this Agreement) and which has become due through death, maturity or surrender;
  - 17.2.2 that the Claimant is the person who was entitled to the proceeds of that policy upon the occurrence of the insured event, or is otherwise entitled in accordance with Section 2 (1)(d) of the Agreement and pursuant to the Succession Guidelines (Annex C); and

- 17.2.3 that either the policy beneficiary or the policyholder or the insured life, who is named in the claim was a Holocaust victim as defined in Section 14 of the Agreement.
8. Where the relevant company can trace no written record of a policy, the burden upon the Appellant to establish that a policy existed is a heavy one, even when the burden is to establish that the assertion is “plausible” rather than “probable”. Where the Appellant is not able to submit any documentary evidence in support of the claim, the Appellant’s assertion must have the necessary degree of particularity and authenticity to make it credible in the circumstances of this case that a policy was issued by the company.
  9. In this matter the Appellant asserts that the [REDACTED] register is proof that his father purchased policy number [REDACTED]. However, there is no documentary evidence to support that his father purchased the policy. Policy [REDACTED] was specifically mentioned in correspondence dated 19<sup>th</sup> April 1953 by the Appellant’s father. On an unknown date the Appellant wrote to the DZI and also mentions policy number [REDACTED]. There is no reference to the policy now being claimed by the Appellant – policy number [REDACTED]. Had the Appellant’s father, in fact, purchased two policies from [REDACTED], it would be assumed then he would have mentioned them both specifically in the 1953 correspondence, as would the Appellant after the war.
  10. The Appellant wrote in his appeal submission that: “*D.Z.I. agreed to show me [during the Communist regime in Bulgaria] that it was noted in the register (of [REDACTED]) the policy numbers of the policies which I noted next to my father’s name, our address in Sofia and the amount of the policy. But they emphatically refused to give me a copy, photocopy or any form of certification.*” The Appellant was in contact with DZI in September 2004 and it provided a copy of the register to the Appellant. It is plausible that the DZI would have provided all the information pertaining to the Appellant’s request for all insurance policies issued to his father. There is no reference to the Appellant’s father (his name or address) in the documentation.
  11. With respect to the Appellant’s contention that the handwritten entries for both numbered policies appear to be identical, it would appear to the Arbiter that the more plausible explanation for this is that a single clerk was the individual assigned the responsibility of entering the policy numbers in the register sequentially, and not that the identity of writing reflects an identity of policyholder..
  12. The Appellant has not met the burden of proof that policy [REDACTED] was issued to his father. There is insufficient evidence to convince the Arbiter that there is a connection between policy [REDACTED], noted in the [REDACTED] register, and the Appellant’s father. This is particularly true in light of the fact that no additional details have been provided and neither [REDACTED] nor the ICHEIC found a research match in their databases.

**IT IS THEREFORE HELD AND DECIDED:**

The appeal is dismissed.

Dated: February 2006

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[REDACTED]