

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], née [REDACTED], was born on [REDACTED] 1949 in Zagreb, Croatia. Her great-uncle [REDACTED] was born on [REDACTED] 1887 in Varazdin, Croatia, and died in the Jasenovac concentration camp in October 1942. He was an industrialist by profession.

2. The Respondent is [REDACTED] ([REDACTED]) as the successor to [REDACTED].
3. The Appellant submitted a claim form to the ICHEIC dated 28th July 2003 claiming the proceeds of policy number [REDACTED] issued to [REDACTED] by [REDACTED], Belgrade. She indicated that the policy was for life insurance and was issued in Zagreb. She was unable to name the beneficiary or the sum insured, but indicated that the premiums were in the value of 1,419.00 Czech Crowns. She was not aware of any payments having resulted from the policy.

In support of her claim, the Appellant submitted biographical documentation and a premium receipt dated 25th October 1941 for policy [REDACTED].

4. The ICHEIC processed the claim under number [REDACTED] and submitted it, together with the Appellant's related claim number [REDACTED], to the Respondent.
5. The Respondent issued its decision in relation to claim numbers [REDACTED] and [REDACTED] on 20th May 2005. It offered the Appellant USD 56,340.41 for claim number [REDACTED] concerning policy number [REDACTED] issued to [REDACTED]. The Appellant accepted this offer on 6th June 2005.

[REDACTED] declined the Appellant's claim number [REDACTED] for policy number [REDACTED] stating that it did not fit within the numbering scheme for [REDACTED]'s life insurance policies.

6. The Appellant appealed [REDACTED]' decision in respect of claim number [REDACTED] on 19th July 2005 stating:

"I'm certain that the pay sheet for insurance policy "[REDACTED]" paid in 25th October 1941 relates to life insurance, not on insurance of some belongings, because on territory of NDH (capital city – Zagreb) where the insured had lived, and where the pay in had been done, all Jew belongings [were] taken away before [the] mentioned date. ...

[It's] unlikely that Mr. [REDACTED] would pay an insurance policy for belongings that were taken away from him months earlier, and confiscated by law almost three weeks before that payment in dispute. It's much more likely that it is life insurance, because his own existence was all that was left to him."

The Appellant detailed the laws applicable to Jews during the Nazi era in Croatia, and submitted copies of these regulations and orders with her Appeal Form.

7. [REDACTED] responded to the appeal on 6th September 2005 stating:

"[We] cannot but confirm our previous decision on this claim, as the "[REDACTED]" insurance policy n. [REDACTED] was for sure a non-life policy, and there is no evidence of any claim eligible for compensation under such policy. The ground of appeal according to which this would have been a life insurance (because all the policyholder's belongings would have been taken away months earlier) is disproved by our internal records concerning the number of "[REDACTED]" life insurance policies, and by the remark that in such a case he would not have been able to keep the policy n. [REDACTED] valid."

8. On 23rd September 2005 the Appeals Office informed both parties that the appeal would be on a "documents only" basis, unless it received a request from either party for an oral hearing within 14 days.

9. No request was received so the appeal proceeds on a “*documents only*” basis.
10. 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 Panel Decision is made there.

CONCLUSIONS OF LAW

16. The main issue in this appeal is whether the Appellant has met the burden of proof set out in section 17 of the Appeal Guidelines (Annex E to the Agreement). This provides that to succeed in an appeal an Appellant must prove, 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 1st January 1920 and 8th 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.
24. In this case there is no doubt that a contractual relationship existed between the Appellant’s great-uncle, Mr [REDACTED], and the Respondent. [REDACTED] acknowledged this relationship with its offer of compensation to the Appellant for policy number [REDACTED] (the subject of claim number [REDACTED]). Further, the Appellant was able to produce a policy receipt for policy number [REDACTED], which is the subject of this appeal.
25. It is accepted also that the Appellant is entitled to bring this claim as her great-uncle’s heir. During the course of the claims process she submitted ample documentary evidence establishing her familial relationships. As Mr [REDACTED] was clearly a Holocaust victim for the purposes of the Agreement, the sole issue for determination concerns whether the policy was one for which payment became due.
26. In its letter of 20th May 2005, [REDACTED] declined the claim asserting that the policy could not have been for life insurance, as it did not fit within [REDACTED]’s numbering system for life insurance policies. The Appellant has appealed this decision arguing that the policy must have been for life, not property, insurance, as by 1941 (the date of the premium receipt) regulations were in force in Croatia which were severely limiting the property rights of Jewish persons. She argues that her great-uncle was unlikely to have been paying

premiums for property insurance when much, if not all, of his property would have been confiscated by the National Socialist regime.

27. While this argument is not without some force, it does not overcome the Respondent's convincing evidence that the policy number did not match [REDACTED]'s policy numbering system for life policies. The Appellant's evidence provides only a historical context for the events that were taking place in Croatia at the time. It is insufficient evidence to establish in this specific case that it is plausible that this was a policy of life, rather than property, insurance.
28. Pursuant to section 2(2) of the Agreement, a claim concerning a non-life policy shall only be eligible for compensation where the insured event occurred while the policy was in force. As this has not been established, the Appellant has not met the burden of establishing an eligible claim under the Agreement. The appeal must be dismissed.

IT IS THEREFORE HELD AND DECIDED

The appeal is dismissed.

Dated this 23rd day of January 2006

[REDACTED]