

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 is [REDACTED]. His father was [REDACTED], born [REDACTED] 1892 in Lemberg. The Appellant and his family lived in Vienna, Austria until 1938.
2. The Respondent is [REDACTED].
3. The Appellant submitted a claim form dated 19 December 2003 to the International Commission on Holocaust Era Insurance Claims (ICHEIC), in which he claim the proceeds of an insurance policy taken out by his father.
4. The Respondent sent the Appellant a final decision letter on 29th August 2005 stating that it had searched its records for the name of his father. It had also contacted various German State Compensation and Restitution Authorities. It had considered the asset declaration dated 29th

June 1938 which was completed by the Appellant's father and lists a policy taken out from the Respondent with a value of RM 750. The Respondent concluded that the existence of a contractual relationship with the Appellant's father had been established. On the basis of the value of the policy (750 RM) it calculated a compensation payment of € 2,944.14 (approximately US\$ 3,563.10) and offered the Appellant the minimum payment of US\$ 4,000 for the policy.

5. The Appellant submitted an appeal form to the Appeals Office dated 26th September 2005. The Appellant claimed that the offer for his father's policy was insufficient because, he argues, the value of a life insurance policy taken out at any time would be much higher; interest alone would lead to a much bigger amount over such a long period. The Appellant emphasizes that his father was a wealthy and well-known businessman in Vienna who had owned a busy and popular textile store in the city centre and as such surely would have taken out insurance of greater value.
6. 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 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 6th July 2004 this appeal was assigned to [REDACTED].

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

LEGAL CONCLUSION

7. The issue for determination is whether [REDACTED]'s valuation of [REDACTED]'s policy was in accordance with the Valuation Guidelines as set out in Annex D to the Agreement.
8. In the asset declaration the value of the policy is indicated as RM 750. Since the policy was purchased in Austria the amount has to be converted from RM to Austrian Schilling ("AS") by using the factor 1RM = 1.5 AS, which calculates to the amount 1,125.00 AS.

Because the Appellant's father passed away in 1947, the result has to be multiplied with the factor 28.4 in accordance with Schedule 2 of the Valuation Guidelines (step 1). This calculates to the amount of 31,950 AS.

9. For offers made after January 2001 interest must be added to the policy value according to Schedule 2 of the Valuation Guidelines (step 2). These interest rates have been agreed in the Valuation Guidelines for 2001 and 2002 and have been fixed for 2003, 2004 and 2005 by a Memorandum of ICHEIC after consultation with the Foundation and the [REDACTED] as the other parties to the Agreement (2001: 5.4%; 2002: 5.0%; 2003: 4.75%; 2004: 5%; and 2005: 5% according to the month, in which the decision is made, plus two months, i.e. 10/12 of 5%), which leads to the amount of 33,675.30 AS for 2001, 35,359.07 AS for 2002, 37,038.62 AS for 2003, 38,890.55 AS for 2004, and 40,510.99 AS for 2005.

This amount calculates to € 2,944.10 on the basis of the fixed exchange rate of AS 13.7603 = € 1.00.

A conversion of € 2,944.10 to the currency of US dollars calculates to US\$ 3,563.10 on the basis of an exchange rate of 1 Euro = 1,21058 US dollars.

10. Notwithstanding the above calculation, however, pursuant to Section 2.3 of the Valuation Guidelines each claimant shall receive in respect of any valid claim on a policy issued in Germany by a German company a minimum payment of at least US\$ 4,000 if the Claimant was a victim of the Holocaust.
11. The Respondent provided the Appellant with documentary evidence of the calculation of its offer in its final decision letter dated 29th August 2005. The offer made to the Appellant totalling US\$ 4,000 for the claimed policy by the Respondent is in accordance with the Valuation Guidelines.
12. The Appellant has submitted that given his father's social status and financial wellbeing it is likely that the value of the policy would have been much higher. However, the only evidence for the value of the insurance policy is an asset declaration that lists a policy with a value of RM 750. No evidence has been submitted, which would allow to calculate a different value. [REDACTED]'s decision must therefore be confirmed.

IT IS THEREFORE HELD AND DECIDED:

The appeal is dismissed.

Dated: 31st January 2006

[REDACTED]