

ANNUAL REPORT ON THE HOLOCAUST  
VICTIMS INSURANCE ACT,  
CHAPTER 117 OF THE LAWS OF 1999,  
FOR THE YEARS 2006 AND 2007  
BY THE MARYLAND INSURANCE  
ADMINISTRATION

## I INTRODUCTION

During the 1999 Session, the Maryland General Assembly passed the Holocaust Victims Insurance Act, H. B. 177, Chapter 117 of the Acts of 1999. See MD. Code Ann. Ins. § 28-101 et seq. Pursuant to § 28-106 of the Act, the Maryland Insurance Administration (MIA) is required to file an annual report describing the progress of the International Commission for Holocaust Era Insurance Claims (ICHEIC). This is the report for January 1, 2006 through March 31, 2007. During 2006, ICHEIC concluded its claims operations and closed the London claims office. The closure of the London appeals office followed at the end of 2006 when appeals were concluded. The Washington office closed at the end of March, 2007, as only a few recordkeeping tasks remained for ICHEIC.

## II BACKGROUND

During the Holocaust era, 1933 to 1945, the Nazis seized Jewish property throughout Europe. Life, property, and other forms of insurance were a common asset in Europe at that time, but millions of policies went unpaid as Jewish policyholders were unable to cash them in, were deported, or were killed. After World War II, when survivors or family members made claims, insurance companies refused to honor the policies. Reasons given included insufficient documentation, the insured property no longer existed or had been confiscated, or the policy had lapsed or been paid to a government or other family members. The claimants had no recourse at that time.

The treaty for the reunification of Germany was interpreted by the German courts to remove the moratorium on Holocaust claims by foreign nationals. Subsequently, a number of class action lawsuits were filed in U.S. courts seeking restitution from companies doing business in Germany during the Nazi era. Lawsuits seeking payment of insurance claims were among those filed. Insurance companies were willing to negotiate a compensation fund in order to be secure from litigation.

In early 1998, the National Association of Insurance Commissioners (NAIC) created ICHEIC as a mechanism to ensure that unpaid insurance claims of Holocaust victims would be paid. A memorandum of intent was signed in May 1998 by various State Insurance Commissioners, four major insurance company groups in Europe, and representatives of international Jewish organizations. In September 1998, a formal Memorandum of Understanding (MOU) was signed by almost all U.S. Insurance Commissioners, six major European insurance company groups, several European insurance regulators, and the major world Jewish organizations.

The MOU created the 12-member International Commission. The primary mission and purpose of ICHEIC is to establish a fair, just, and expeditious process to address the issue of unpaid insurance policies issued to victims of the Holocaust between 1920 and 1945. The Commission is composed of three U.S. insurance regulators, three representatives of Holocaust victims, and six representatives of European insurance

regulators and insurance companies. It is chaired by former Secretary of State Lawrence S. Eagleburger.

On July 17, 2000, the Government of the Federal Republic of Germany and the Government of the United States of America agreed to the formation of the Foundation “Remembrance, Responsibility, and the Future.” (the German Foundation) The two governments agreed that:

the Foundation “Remembrance, Responsibility, and the Future” covers, and that it would be in their interests for the Foundation to be the exclusive remedy and forum for the resolution of all claims that have been or may be asserted against German companies arising from the National Socialist era and World War II. ... The Federal Republic of Germany agrees that insurance claims that come within the scope of the current claims handling procedures adopted by the International Commission of Holocaust Era Insurance Claims (“ICHEIC”) and are made against German insurance companies shall be processed by the companies and the German Insurance Association on the basis of such procedures and on the basis of additional claims handling procedures that may be agreed among the Foundation, ICHEIC, and the German Insurance Association.

ICHEIC, the German Foundation, and the German Insurance Association reached an agreement on October 16, 2002.

The original six signatory companies to the MOU were Allianz AG (Munich, Germany), Assicurazioni Generali (Rome, Italy), AXA (Paris, France), Winterthur Laben (Switzerland), Zurich Financial Group (Switzerland), and Basler/Laben (Switzerland), which withdrew from the MOU shortly after signing. These are major insurance holding companies composed of large groups of insurers, including American companies, a number of which operate in Maryland. The agreement with the German Foundation expanded the reach of the ICHEIC claims process. ICHEIC has also entered into agreements with organizations in other European countries regarding the processing of Holocaust era insurance claims.

Under the MOU, ICHEIC was responsible for establishing the process for addressing Holocaust era insurance claims. ICHEIC published the names of policyholders from the period provided by companies and other databases on its website; the list of potential policyholders has been moved to <http://www1.yadvashem.org/pheip> to be preserved for research. The responsibility for resolving claims rested first with the individual insurance companies. Relaxed standards of proof took into account the passage of time and the practical difficulties of producing relevant documents. Any postwar restitution payments are taken into account to offset payments. ICHEIC established the formulae used to value the policies. The valuation process takes into account currency reforms, currency conversions, and interest. In addition to the payment of individual claims where an unpaid policy could be identified and confirmed, Section 8A of the MOU provided ICHEIC with the means to make humanitarian payments to

claimants where the policy could not be attributed to a specific company or was attributed to a company no longer in existence. There is also a general humanitarian fund.

In 2006, concerns arose about the availability of the archives at Bad Arolsen, and whether those archives contained probative evidence relating to insurance assets. ICHEIC maintained that access to the Bad Arolsen archives would not improve claimants' chances of success under the ICHEIC process, because ICHEIC assumed that a person was persecuted (unless evidence that a person was not persecuted was presented), and offered full valuation when a date of death was unknown. The Bad Arolsen archives would be most likely to offer evidence of persecution and date of death. ICHEIC asserted that if anything, additional information might lower payouts to claimants who benefited from relaxed standards of proof and assumptions that led to the highest possible payout.

### III Chapter 117 of the Laws of 1999

In 1999, the Maryland General Assembly enacted H.B. 177, Chapter 117 of the Laws of 1999, the Holocaust Victims Insurance Act. See MD Code Ann., Ins. § 28-101 et seq. In general, this subtitle (a) provides a tax exemption for any sums recovered by victims of the Holocaust, including their heirs, in connection with Holocaust era insurance claims; (b) requires insurers to promptly and diligently investigate and resolve any insurance claims filed by Holocaust victims and their heirs; (c) waives the statute of limitations in any case involving an insurance policy of a victim of the Holocaust; and (d) establishes relaxed evidentiary rules for Holocaust era insurance claims.

In addition, § 28-105 of the law authorizes the Commissioner to direct authorized insurance companies to file a detailed report containing information about the activity of all entities within the holding companies during the Holocaust era (between January 1, 1920 and December 31, 1945), as well as information about possible claims. The law does not require these insurer reports unless ICHEIC proves to be ineffective in resolving unpaid insurance claims, or the Commissioner determines a company is not meaningfully participating in the ICHEIC process. The presumption in the statute is that ICHEIC will be successful, that insurers involved will cooperate in good faith, and that all claims will finally be paid.

There is a question as to whether the Commissioner would be able to take the action authorized by § 28-105 of the Act. California also passed a Holocaust Victim Insurance Relief Act in 1999. The California Insurance Commissioner issued administrative subpoenas pursuant to that act, requiring any insurer doing business in California to disclose information about all policies sold in Europe between 1920 and 1945 by the company itself or a related company. Insurers sought an injunction against the Commissioner. The ensuing litigation culminated in the Supreme Court's decision in *American Insurance Association et al. v. Garamendi, Ins. Com'r, State of California*, Sup. Ct. (2003). The Supreme Court held that the California statute interfered with the President's conduct of foreign policy and was therefore preempted. It appears likely that,

if the Commissioner were to take the steps authorized by § 28-105 of the Act, a similar legal challenge would follow.

#### IV PROGRESS OF THE COMMISSION

##### ICHEIC CLAIMS PROCESSING

ICHEIC concluded the claims review process at the end of 2005. By June 30, 2006, letters had been mailed to all of the claimants, except for approximately 100 Generali claimants. The London claims office closed down, after verifying the claims and reconciling ICHEIC's database with the companies' records, and reviewing the research database to make certain that the companies had reviewed all matches. A copy of the final statistical report is attached as Exhibit 1. In the State of Maryland, awards totaling \$2,329,960.34 were made to 382 claimants.

Appeals from determinations made by the German companies under the GDV agreement went to an appeals panel. Appeals from all other ICHEIC companies went to an appeals tribunal. The appeals process was the main focus of ICHEIC's activities in the second half of 2006, and great effort was made to make the process more efficient to assure prompt decisions. The process was concluded at the end of 2006, and the London appeals office closed. Redacted appeal decisions are available on ICHEIC's website. An example is attached as Exhibit 2.

Audits of the claims processes at the companies by ICHEIC were also completed. These audits ensured that the companies were following ICHEIC's standards. The audit reports are available on ICHEIC's website.

The U.S. Holocaust Memorial Museum will be the repository for many ICHEIC documents. The Museum will continue to operate the ICHEIC website, store the Chairman's decision memoranda and meeting minutes, and archive the claims and appeals records. The claims and appeals records will be available for research after a 70 year period.

##### SECTION 8A PAYMENTS

ICHEIC recognized that the passage of time makes it impossible for some claims to meet even the relaxed standards of proof. There were also cases where the claims were against companies that were subsequently nationalized or liquidated in the post-war era and there is no successor company. If claims cannot be matched to a company, then they may be eligible for a humanitarian payment under section 8A1 of the MOU. Claims against nationalized or liquidated companies are paid under section 8A2 of the MOU.

Payments under section 8A1 arise from the filing of an ICHEIC claim, but they are intended to be humanitarian payments that acknowledge the injustices of the Nazi era, not insurance payments. These were awards of \$1000 per claimant. These were made in

cases where the claimant did not name a company, and could not be matched to a company through examination of company records, and in cases where a claimant did name a company, but could not be matched through the company's records. The total 8A1 payments were 31.28 million dollars.

Payments under 8A2 are made on a per-policy basis for documented policies and are calculated according to ICHEIC valuation guidelines. These payments were for Eastern European companies that had been liquidated or nationalized, and had no successor company. Where there was no documentation, the payments were made under 8A1, not 8A2. Documented claims where the face value of the policy could be determined were paid based on the face value. If the value was unknown, an average value by country was used. A total of 30.54 million dollars was paid on 2,874 claims through this process.

## OTHER HUMANITARIAN FUNDS

The German Foundation provided ICHEIC with \$197 million for humanitarian purposes, including section 8A payments. Additional funds for humanitarian aid will become available as the claims payment process winds down, and funds allocated, but not paid, for claims are shifted to humanitarian funds. The first year's allocation of payments by ICHEIC has already been made.

There has been debate on the selection criteria for humanitarian projects. The debate centered on whether the humanitarian funds should be used solely for the needs of surviving Nazi victims or whether projects devoted to reviving Jewish culture in areas where the Nazi regime sought to eradicate Jewish culture should also receive payments. A decision was made that some cultural activities should receive funding, but no hard and fast pre-determined proportion of funds would go to one type of activity or the other.

ICHEIC has been cautious in committing to funding humanitarian efforts, because it wants to be certain that all claims can be paid before funds are diverted to the humanitarian projects. Currently, four projects have received these types of funds: ICHEIC Service Corps, Initiative to Bring Jewish Cultural Literacy to Youth in the Former Soviet Union, Vad Yashem Program, and March of the Living. In 2006, ICHEIC allocated \$21 million in social welfare benefits to provide for needy Jewish victims of Nazi persecution. These funds are entirely from the German Foundation, "Remembrance, Responsibility, and Future."

The ICHEIC Service Corps is a pilot project to link university students to local Holocaust survivors. The program is funded through the end of the 2006-2007 school year. Students are able to provide services to those in need while also learning more about the Holocaust and strengthening their Jewish identity.

The Jewish Agency for Israel organizes the initiative in the former Soviet Union to teach Jewish youth about their cultural traditions. Education is provided on pre-war Jewish communities in Eastern Europe; students are introduced to Holocaust survivors

and learn their stories; and participants experience Jewish and Israeli culture to develop their own form of Jewish expression. This program has been operating in St. Petersburg. In 2006, it expanded to Moscow. The total commitment by ICHEIC was \$3.4 million.

In 2005, ICHEIC approved a proposal for a pilot program by Yad Vashem with the goal of preserving the memory of the Holocaust and fighting anti-Semitism. The funding for the pilot year is \$1.1 million. ICHEIC also provided a one-time grant of \$500,000 to March of the Living, a symbolic march from Auschwitz to Birkenau to honor those who perished in the Holocaust.

Following the final claims and appeals awards, ICHEIC could honor its commitments to these projects.

## SUMMARY

ICHEIC met its goals and target dates for completion of claims and appeals processing. It has found an appropriate repository for its records of historical import. Its operations have ceased. There does not appear to be a reason to take the actions authorized by § 28-105 of the Insurance Article, particularly in light of the legal impediments to doing so.

# ICHEIC CLAIMS PROCESS

19-Mar-07

CLAIMS/INQUIRIES RECEIVED	Total claims/inquiries received eligible under the ICHEIC claims process*	
	Claims/inquiries distributed to companies	91,558
	Claims/inquiries which name a company (named)	31,447
	Claims/inquiries which do not name a company (unnamed)	60,111

\*Of the 91,558 eligible claims received, approximately 12,000 have been created by ICHEIC for 'technical' reasons.  
To date, ICHEIC has received 40,438 claims which are ineligible for the ICHEIC claims process (bank claims, slave labour claims, etc.) or are replica claims.

OFFERS	offers	dollars (in millions)	
	Offers on ICHEIC claims/inquiries which name an existing company (named)	5,611	\$124.07
	Offers on ICHEIC claims/inquiries which originally did not name a company but where a company has found a match (unnamed)	7,789	\$99.01
	<b>Total offers on ICHEIC claims/inquiries</b>	<b>13,400</b>	<b>\$223.08</b>
	Offers made by companies on claims not submitted through ICHEIC, but using ICHEIC Valuation Guidelines	786	\$15.19
	<b>Total offers made using ICHEIC Valuation Guidelines</b>	<b>14,186</b>	<b>\$238.27</b>
	Offers made to claimants through the ICHEIC 8a1 humanitarian claims process (a)	0	\$0.00
	Offers made to claimants through the ICHEIC 8a2 humanitarian claims process (b)	2,874	\$30.54
	<b>Total offers resulting from ICHEIC claims processes (company review/humanitarian)</b>	<b>48,263</b>	<b>\$300.09</b>

## CLAIMS/INQUIRIES WHICH NAME A COMPANY

	# sent to companies	offers (c)	offers \$	declines	outstanding (d)
Generali Group (e)	6626	2665	\$80,305,981	3961	0
Allianz Group	1336	343	\$3,380,336	593	0
Allianz RAS	3117	1059	\$13,507,407	2058	0
AXA Colonia	333	107	\$527,790	226	0
AXA France	194	125	\$4,814,756	69	0
Winterthur	62	11	\$73,870	51	0
Zurich	150	42	\$55,452	108	0
<b>MOU Companies subtotal</b>	<b>11818</b>				<b>0</b>
Sent to companies operating under the GDV/German Foundation Agreement (i) (1)	2533				0
Decisions by non ICHEIC-Member German companies		770	\$14,654,546	1437	
Decisions by the GDV on blocked account and related cases (i)		326	\$3,013,865		
<b>GDV subtotal</b>	<b>2533</b>				<b>0</b>
Claims Resolution Tribunal (f)	31	15	\$82,557	0	n/a
Sjoe Foundation (g)	95	10	\$143,090	65	n/a
Buyse Commission (h)	83	0	\$0	11	n/a
General Settlement Fund (i)	2949	0	\$0	0	n/a
Non-ICHEIC Companies	185	138	\$2,719,630	47	n/a
<b>Other Organisations subtotal</b>	<b>3343</b>	<b>163</b>	<b>\$2,945,277</b>	<b>123</b>	<b>n/a</b>
<b>Claims under 8a2 process (b)</b>	<b>6594</b>	<b>2874</b>	<b>\$30,548,456</b>	<b>3720</b>	<b>n/a</b>
<b>total</b>		<b>8485</b>	<b>\$154,627,616</b>	<b>12,740</b>	<b>0</b>

## DECISIONS ON CLAIMS/INQUIRIES WHICH HAVE BEEN MATCHED (n)

	unnamed claims where a match was found	offers (c)	offer \$	declines
Generali Group (e)	3513	1903	\$39,917,507	1609
Allianz Group	3406	1229	\$8,709,447	2177
Allianz RAS	307	276	\$3,891,704	31
AXA Colonia	1560	624	\$4,988,539	936
AXA France	7	6	\$76,232	1
Winterthur	209	125	\$600,834	84
Zurich	81	51	\$1,483,025	29
<b>MOU-Companies subtotal</b>	<b>9082</b>			
Sent to companies operating under the GDV/German Foundation Agreement (i) (1)	7161			
Decisions by non ICHEIC-Member German companies		1183	\$15,875,223	3829
Decisions by the GDV on blocked account and related cases (i)		2349	\$22,729,596	
<b>GDV subtotal</b>	<b>7161</b>			
Claims Resolution Tribunal (f)	2	2	\$7,309	0
Sjoe Foundation (g)	166	39	\$517,644	127
Buyse Commission (h)	1	1	\$15,334	0
General Settlement Fund (i)	0	0	\$0	0
<b>Other Organisations subtotal</b>	<b>169</b>			
<b>total</b>		<b>7,789</b>	<b>\$99,012,403</b>	<b>5,623</b>

### REMAINING UNNAMED CLAIMS

total number of unnamed claims in circulation:

0

average number of companies to which unnamed claims are sent:

3.9

reviewed by all relevant companies but not matched with any of the company profiles:

51,199

EXHIBIT

tabbles

## ICHEIC APPEALS REPORT

### SUMMARY

19-Mar-07

	New Appeals	Appeals Panel (1)	Appeals Tribunal (2)	Total to Date
Appeals received		955	1257	2212
Appeals received on company offers (4)		194	99	293
Value of company offers made which are being appealed		\$1,953,844	\$2,798,646	\$4,752,490
Company declines made				17,399
Appeals received on company declines		761	1158	1919
Appeals dismissed		771	880	1651
Awards made (7)		104	281	385
Offer accepted or appeal withdrawn after an appeal form has been received (5)		80	96	176
Value of appeals awards		\$1,255,011	\$4,903,389	\$6,158,400
Appeals pending		0	0	0

### APPEALS BY COMPANY HEARD BY THE APPEALS TRIBUNAL

19-Mar-07

	New Appeals This Period	Appeals on Offers	Value of Appealed Offers	Appeals Made on Declines	Offer Accepted or Appeal Withdrawn after Appeal Form Received	Appeals Pending	Appeals Dismissed	Awards Made	Value of Awards Made	Total Appeals
Aachen Mun				4			4			4
Allianz Group		2	\$14,006	101	8		84	11	\$116,365	103
Allianz RAS		11	\$109,146	282	11		150	132	\$2,029,800	293
AXA France		3	\$55,375	11	6		6	2	\$8,942	14
AXA Colonia		3	\$10,302	23	3		19	4	\$46,111	26
AXA Belgium				2	1		1			2
Generali (6)		76	\$2,579,053	697	61		592	120	\$2,569,959	773
Winterthur		1	\$4,100	8	1		7	1	\$6,000	9
Zurich		3	\$26,664	30	5		17	11	\$126,212	33
<b>Totals</b>		<b>99</b>	<b>\$2,798,646</b>	<b>1158</b>	<b>96</b>	<b>0</b>	<b>880</b>	<b>281</b>	<b>\$4,903,389</b>	<b>1257</b>

### APPEALS BY COMPANY HEARD BY THE APPEALS PANEL

19-Mar-07

	New Appeals This Period	Appeals on Offers	Value of Appealed Offers	Appeals Made on Declines	Offer Accepted or Appeal Withdrawn after Appeal Form Received	Appeals Pending	Appeals Dismissed	Awards Made	Value of Awards Made	Total Appeals
Allianz Group		51	\$380,452	184	28		181	6	\$41,792	215
Allianz RAS		32	\$602,359	116	10		102	36	\$453,442	148
AXA France				2	1		1			2
AXA Colonia		13	\$85,831	57	8		60	2	\$8,000	70
GDV (7)		40	\$268,051	6	9		32	5	\$115,008	46
GDV (8)		54	\$592,220	397	21		378	52	\$539,367	451
Generali (6)		1		10	2		8	1	\$16,766	11
Winterthur		3	\$24,931	6	1		6	2	\$80,635	9
Zurich				3			3			3
<b>Totals</b>		<b>194</b>	<b>\$1,953,844</b>	<b>761</b>	<b>80</b>	<b>0</b>	<b>771</b>	<b>104</b>	<b>\$1,255,011</b>	<b>955</b>

## General Notes

ICHEIC statistics shift in relation to claims processing phenomena, including the following:

1. ICHEIC has occasionally revised its number of eligible claims due to the ongoing identification of claims that fall outside of ICHEIC's mission, e.g., non-Holocaust-era claims, claims which - despite efforts to obtain additional information from claimants - do not contain enough information to enable complete processing, as well as replica (duplicate) claims.
2. Claims occasionally move within the ICHEIC process due to ongoing efforts to ensure that claimants are given the best possible opportunity to have their claim(s) considered. Examples include claims originally assigned to companies or processing entities that were subsequently determined not to cover the particular portfolios or geographic regions upon which the claims were based. While some claims have been transferred to other companies participating in the ICHEIC process, others have been cycled into ICHEIC's 8A2 humanitarian claims process.

## Notes on the Claims Section

- (a) The 8a1 humanitarian claims process evaluates claims containing only anecdotal evidence referencing a Holocaust-era insurance policy, and for which no supporting documentation can be found. Payments of \$1,000 are made on a per-claimant basis on claims that qualify for an award under this category.
- (b) The 8a2 Humanitarian claims process covers claims on companies that were liquidated or nationalized after World War II and for which no present-day successor company can be identified. Awards in this humanitarian claims process are calculated on a per policy basis in accordance with the ICHEIC Valuation Guidelines.
- (c) Awards on appeals are not included herein. These figures are reported separately.
- (d) Decisions on some of the claims included here cannot be made until the GDV verifies that there was no previous compensation paid.
- (e) Between September 2001 and November 2004 the Generali Trust Fund was the implementing organisation for claims received by ICHEIC which (1) named Generali or (2) stated that the policy was bought in a country where Generali operated. The GTF rendered 3188 claims inquiries which named Generali, 1103 of which resulted in offers totalling \$28,600,986. It also matched 1445 claims inquiries which did not name a specific company of which 764 offers were made totalling \$16,328,320.
- (f) The Claims Resolution Tribunal (CRT), located in Switzerland, is responsible for processing a number of Swiss claims.
- (g) The Sjoa Foundation, located in the Netherlands, processes claims on behalf of Dutch insurers.
- (h) The Buysse Commission, located in Belgium, processes claims on behalf of Belgian insurers. ICHEIC's agreement with the Buysse Commission was signed in June of 2003.
- (i) Offers made by ICHEIC Member companies on claims listed as "sent" here are reflected above as offers by the ICHEIC Member companies which are covered under ICHEIC's agreement with the German Insurance Association (GDV)/German Foundation.
- (j) Blocked account cases are paid and processed directly by the German Insurance Association (GDV). A blocked account is defined as a bank account from which the owner was constrained in withdrawing the proceeds due to the legal restrictions on the account imposed by the German National Socialist Regime and other relevant governments.
- (k) Claims that did not name a company and have been matched by companies against their records and/or other sources.
- (l) The General Settlement Fund, located in Austria, processes claims on behalf of Austrian insurers. The GSF is not due to make any offers on claims until all claims have been researched and decided.

## Notes on the Appeals Section

- (1) The Appeals Panel considers appeals on decisions from German insurance companies and the German subsidiaries of non German companies as well as those against Allianz and Allianz RAS which were dated after 16 October 2002.
- (2) The Appeals Tribunal considers appeals on decisions from ICHEIC member companies AXA, Generali, Winterthur, and Zurich as well as those against Allianz and Allianz RAS which were dated prior to 16 October 2002.
- (3) Upon receipt of a final decision claimants have 120 days to file an appeal.
- (4) This excludes offers that claimants have accepted.
- (5) These totals include cases where, subsequent to submitting an appeal form, the appellant either accepts the original offer or withdraws the appeal. These totals are not included in the number of appeals dismissed nor in the number of awards made.
- (6) Between September 2001 and November 2004 appeals on Generali and GTF were considered by the Generali Trust Fund (GTF). As of 12<sup>th</sup> November 2004, the GTF has received 232 appeals. It made an award on 27 and 131 claims were dismissed. 26 Appeals were settled or withdrawn prior to the Appeals Committee hearing. Appeals received after 31<sup>st</sup> November 2004 will be heard by the ICHEIC Appeals Tribunal. The numbers in this section refer only to appeals heard by the Appeals Tribunal.
- (7) This refers to blocked account cases.
- (8) This refers to other non MOU companies in the GDV.

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

Fax:

++ 44 (0) 207 269 7303

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], née [REDACTED], was born in Mannheim, Germany on [REDACTED] 1934. She is the daughter of [REDACTED] who was born in Dynov, Poland on [REDACTED] 1898 and died in the Buchenwald concentration camp on 22<sup>nd</sup> September 1940.
2. The Respondent is [REDACTED] ([REDACTED]).
3. The Appellant submitted a claim form dated 30<sup>th</sup> January 2001 to the International Commission on Holocaust Era Insurance Claims (ICHEIC) claiming life insurance policies issued to her father [REDACTED] by an unnamed company. She was unable to provide any policy details or to name the beneficiary.

At section 11 of the claim form she stated:

*"I was orphaned at the young age of six (6). My father was a businessman and, therefore, I assume that he had policies. He was murdered in Buchenwald September 22, 1940 and my mother died in a French concentration camp, Camp De Gurs, six weeks later November 11, 1940. I have no one to ask, so please check into this matter. We were left five war orphans..."*

The Appellant named [REDACTED], [REDACTED], [REDACTED] and [REDACTED], as other living heirs.

4. The ICHEIC processed the claim form under claim number [REDACTED] and submitted it to the Respondent, among other companies, for investigation.
5. On 9<sup>th</sup> January 2003, [REDACTED] wrote to the Appellant informing her that it had searched its central register for evidence of a contract with her father. It stated:

*"Our central register does contain an entry for Mr. [REDACTED]. This means the Mr. [REDACTED] has applied for life insurance coverage with [REDACTED]. Therefore, based on the application number, we have started a search for the corresponding file in our file archives."*

6. On 16<sup>th</sup> June 2005, [REDACTED] issued its final decision letter stating:

*"We are pleased to inform you that we are able to offer a payment of Euro 2,323.41 for the life insurance contract of your father, Mr. [REDACTED], under the terms of the German Foundation "Remembrance, Responsibility and Future".*

*The starting point of our research was the entry for Mr [REDACTED] in our central register. ... As you can see the entry does not contain details on the applied insurance coverage, in particular the sum insured, the amount of the premium or the projected insurance term. Its sole purpose was to find the corresponding file in our archive which is arranged in numerical order. The entry therefore only contains – apart from the personal data of the applicant – the application number [REDACTED].*

*Furthermore, we know from the remark "Uebertr A" (which means transfer to A) that a life insurance contract with the number [REDACTED] with the sum insured of RM 5,000.- starting on March 1, 1930 with an insurance term of 19 years.*

*... We know that in your particular case we have paid out the insurance benefit. We are not sure whether it was paid to the beneficiary. It is also possible that insurance benefits were not paid to the beneficiary but seized by authorities of the Nazi regime.*

*... We have now decided to offer you a fund benefit on humanitarian grounds. In doing so, we wish to express that the mere possibility of a payment to a person or institution other than the beneficiary is reason enough to pay a benefit.*

*... The payment calculated accordingly for policy [REDACTED] taken out by your father amounts to Euro 4,646.83. ...*

*As your sister, [REDACTED], also filed a claim with the ICHEIC we have divided this sum by two as you are entitled to an equal share of the proceeds according to the succession guidelines of the agreement.*

*... As you indicated in your claim there are other living heirs of your father we would like to point out that by acceptance of our offer you are obliged to share the benefits as described in the consent and waiver form."*

[REDACTED] enclosed with this letter a copy of [REDACTED]'s name card from its central register.

It also enclosed the file card for policy number [REDACTED] indicating that the policy was cancelled on 1<sup>st</sup> December 1930. The back of the file card contains information regarding unpaid premiums.

7. The Appellant appealed the offer on 1<sup>st</sup> October 2005. In an attached letter to the Respondent dated 8<sup>th</sup> August 2005 she states:  
  
*"I can assure you that the insurance benefit of RM 5,000 was never paid to any of my father's beneficiaries. I can also assure you that a payment of RM 5,000 in 1940 would have been significantly more meaningful to our family than a current payment of 4,646.83 Euros. Accordingly, I respectfully appeal to your decision and ask that the amount of payment be appropriately adjusted to economically equate with RM 5,000 in 1940."*
8. The Respondent responded to the appeal on 3<sup>rd</sup> November 2005 confirming its decision.
9. On 21<sup>st</sup> November 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.
10. As no request was for an oral hearing was received, the appeal proceeded on a "documents only" basis.
11. The Appellant's sister, Ms [REDACTED], accepted her share of the Respondent's offer and signed a Consent and Waiver form on 19<sup>th</sup> December 2005, waiving all further claims to compensation regarding policy number [REDACTED].
12. 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.

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 Panel Decision is made there.

#### CONCLUSIONS OF LAW

13. [REDACTED] has accepted that it issued policy number [REDACTED] to the Appellant's father prior to the war, and offered compensation on the basis that it could not be certain that payment was made to the rightful beneficiary when the policy was cancelled. Therefore, the sole issue for determination is whether the Respondent's valuation of the policies was in accordance with the Valuation Guidelines (Annex D to the Agreement).
14. Pursuant to sections 1.2 and 1.3 of the Valuation Guidelines, the valuation of a policy involves two phases: the first being the assignment of a base value to the policy; the second being the application of appropriate multipliers to calculate the policy's current value.
15. Where a policy has been issued in Germany, the company is required, pursuant to section 2.1, to assess the claim as if it had been considered under the German post-war Bundesentschädigungsgesetz (BEG). Accordingly, the policy's base value is first calculated by reference to the full sum insured, less any deductions or additions as required under the insurance contract. In this case, the policy's base value was the full sum insured: RM 5000.00.
16. Old savings compensation was then added to this value pursuant to the BEG, resulting in a total value of RM 9,032.00. The company's assessment of this compensation has been checked by the ICHEIC and confirmed as correct.
17. The base value is then converted into Deutsche Marks to account for the currency changes that took place in Germany in 1948. When the conversion rate of 10 RM = 1 DM is applied, this results in a value of DM 903.20.
18. Pursuant to the BEG, a multiplier of 8 is then applied to calculate the value of the policy up until the end of the year 2000, resulting in DM 7,225.60.
19. In accordance with section 2.2, interest is then added calculate the policy's value up until the month two months after the offer is made. These interest rates were set under the Valuation Guidelines for 2001 and 2002, and have been provided since for 2003, 2004, 2005 and 2006 by ICHEIC Memorandum after consultation with the contracting parties to the Agreement: (2001: 5.4%; 2002: 5%; 2003: 4.75%; 2004: 5%; 2005: 5%; 2006: 5%). This results in DM 7,615.78 for 2001; DM 7,996.57 for 2002; DM 8,376.41 for 2003; DM 8,795.23 for 2004 and DM 9,088.40 up until August 2005.
20. When converted into Euros applying a conversion rate of 1 Euro = 1.95583 DM this results in a final offer of Euro 4,646.83.
21. Therefore, the Appeals Panel confirms that the Respondent's offer of 16<sup>th</sup> June 2005 was correctly calculated in accordance with the Valuation Guidelines. Although it is recognised that the offer may seem low in current terms (particularly given the Appellant's accounts that her father was a wealthy businessman) the Appeals Panel, like the parties, is bound to

apply only the Valuation Guidelines in determining the appeal. Therefore, the offer was correct and must be sustained. The appeal is dismissed.

**IT IS THEREFORE HELD AND DECIDED**

The appeal is dismissed.

Dated this 15<sup>th</sup> day of February 2006

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[REDACTED]