EXHIBIT 6

41a Jabotinsky str.
58 279 Holon, Israel
Phone:++972-3-5058732
Fax:++972-3-5037429
e-mail: harelimo@netvision.net.il

December 18, 2007

The Honorable George Daniels
c/o Clerk of the Court
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Objections to Proposed Settlement in Assicurazioni Generali, S.p.A. Holocaust Insurance Litigation

Dear Judge Daniels:

My name is Hanna Hareli. I am a Holocaust survivor living in Holon, Israel. I am objecting to the proposed settlement in the Assicurazioni Generali, S.p.A. Holocaust Insurance Litigation. In addition to this letter, I have sent the materials documenting my experience with Generali and the International Commission for Holocaust Era Insurance Claims (ICHEIC) to attorney Samuel J. Dubbin in the United States, and asked him to present these materials to the Court on my behalf.

The materials and my claim are based on the life insurance policy of my uncle JAKOB WEISZ issued by Assicurazioni Generali on April 20,1930, under the number 119.188.

Here is a recapitulation of the case:

JAKOB WEISZ, born on May 25, 1889 in Slovensky Grob (by then Austro-Hungarian Empire, later Czechoslovakia) was an affluent businessman living before the Holocaust in Bratislava, Czechoslovakia. He was married to SARA nee WEISZFEILER, who was my mother's sister. He was holding prominent positions in the local financial establishment and among other posts he was the manager of "Elso Magyar Bank" and of the "Anglo-Elementar Insurance AG" branch in Bratislava. JAKOB WEISZ perished with his wife and children in the Holocaust.

After the establishment of ICHEIC and publication of the list of potential policyholders from the Holocaust Era I found his name on the list, stating Generali as the insurer. I submitted on December 27, 2001 a claim for his policy to ICHEIC, (listing my sister and cousins as additional heirs). The claim was given number 92046 by ICHEIC.

My claim was forwarded by ICHEIC to Generali and on February 15, 2006 I was announced by Generali, that they found an insurance policy on his name with an insured sum of 50,000 Czechoslovakian Crowns. A water copy of the policy issued in 1930 was attached to the Generali's announcement

However, Generali declined to make any payment on the policy, claiming that the policy does not appear in their portfolio records of 1936 or in those of the following years. Therefore, Generali concluded that the policy was either cancelled or surrendered before 1936, i.e. before the Holocaust Era.

On May 29, 2006 I submitted an appeal to ICHEIC's appeals tribunal against Generali's decision (the appeal was given number 755 by ICHEIC), arguing that it is based solely on negative evidence, without any positive proof attesting the cancellation or surrendering of the policy. I also mentioned that the insured JAKOB WEISZ was a wealthy businessman and bank director (this fact was stated in the water copy of the policy) and it is therefore implausible, that he would cancel or surrender the policy, something being done only in case of financial distress.

In their letter from July 14, 2006 Generali responded, that their archives contain two main components: (a) accounting records based on mechanical ledgers containing all technical data on the policies, known as "Stato Fine ledgers", as from 1936 onwards and (b) water copies of policies from before 1936. However, Generali failed to explain in this letter the absence of any document or other positive evidence confirming the cancellation or surrendering of the policy. As a sole support of their stance Generali claimed, that both components mentioned have been audited and declared to be compliant with all ICHEIC processing rules and standards.

I responded on August 6, 2006 reiterating that Generali failed to provide any positive proof supporting the presumption that a cancellation or surrendering of the policy indeed took place. Referring to the two components of Generali's archives, I found it illogical, that a third component, i.e. a database showing the cancellation or surrendering of the policies was completely absent. As for my part, according to the ICHEIC guidelines, I only had to establish: (a) that the policy claimed was issued by the company and (b) that I am entitled to the proceeds of the policy. My claim has met both requirements, whereas Generali failed to meet their commitment. Concerning the audit of Generali's records I explained the entangled complexity of Generali's operation and network of subsidiaries in prewar Czechoslovakia. I expressed my doubts, whether an audit performed 70 years later could attest beyond any reasonable doubt the completeness of the old records, preempting the possibility of any other explanation for the absence of the policy in the 1936 ledgers. Finally I demanded that if negative evidence should be considered, than, by the same token, the absence of a document showing that the policy was cancelled or surrendered should be also allowed as an acceptable proof that the policy was valid during the Holocaust.

On August 30, 2006 Generali responded, by stating that: "*correspondence or reasons surrounding cancellation or surrender of a policy concerned our local*

branch offices and not the Home Office in Trieste ***which kept essential policy data only"*** (One has to wonder, why the cessation of a policy is not essential enough in order to keep the data about it in the Home Office). However, they also admit, that: ***"we do not know the actual reason why the policy left our portfolio"***. Notwithstanding, the principal argument for the refusal to accept my claim was: *"that the use of negative evidence has been declared to be perfectly in line with the guidelines issued by the International Commission".*

Generali attached to their letter of August 30 a Memorandum, issued by ICHEIC's chairman Mr. Lawrence S. Eagleburger on March 26, 2004 concerning Generali's Stato Fine 1936 database and allowing Generali to use as negative evidence in denying claims on its east European Branches from 1936 onwards.

Answering Generali's letter I wrote on September 12, 2006, **that their admission of not knowing the actual reason for the absence of the policy from the 1936, contradicts their conclusion, explaining such absence solely by a surrender or cancellation of the policy**. In any case such conclusion cannot be considered of being beyond any doubt, even if Mr. Eagelburger's Memorandum enables Generali to use the Stato Fine 1936 Database as negative evidence. The Memorandum does not imply the automatic superiority of such negative evidence. It only allows such evidence to be weighted against the evidence provided by the claimant (who should, by the same token, be allowed also to use negative evidence of his own). I also mentioned the inclusion in ICHEIC lists of policyholders, marked as Generali's clients, even if their names were absent in the Stato Fine 1936 ledgers, meaning that such absence does not nullify automatically the rights pertaining to the policy. I also pointed out, that Generali referred to JAKOB WEISZ's policy as being issued by the company's Austrian branch office , while his residence and business were in Czechoslovakia, with Generali's branches active in that country. I suggested that this incongruity might be one of the reasons of the policy's absence from the Stato Fine ledgers.

Generali responded on October 10, 2006, writing that the policy was indeed issued by the Czechoslovak branch office, explaining their previous statement as an "inadvertent typing mistake".

On October 18, 2006 ICHEIC's appeals office in London sent me a letter, informing me about the possibility of conducting an oral hearing of my appeal by phone.

I responded to ICHEIC on October 27, 2006 suggesting suitable dates for the oral hearing by phone. I also commented on Generali's response from October 10, and pointed out, that the water copy of the policy shows clearly that the policy was issued ***"per Anglo Elementar Vers. A.G."***, being an Austrian, Vienna based, elementary insurance company. This implies the possibility of the policy being sold by this company, acting as sub-agent on behalf of Generali and provides a further explanation of the policy's absence from the Stato Fine ledgers. I also pointed out, that a handwritten remark on

the water copy in German says: **"Ohne Umleg Zuschlag"**, meaning "No Surcharges", indicating clearly, that this is not an ordinary life insurance policy pertaining to an ordinary client.

ICHEIC's appeals office received on November 22, 2006 a letter from Generali's UK branch, denying any link between the Austrian Anglo Elementar Versicherungs A.G.and the Generali Group, stating, that any claim concerning this company would not involve them in any case. Generali also claimed, that the phrase "***per Anglo Elementar Vers. A.G.***" was included only to serve for the identification of the insured's place of residence in view of the collection of premiums. Generali enclosed to their letter a page from Compass people's yearbook of 1931, with JAKOB WEISZ's name listed among the administrative officials and company directors of that time.

The oral hearing of my appeal was conducted by telephone conference call on November 23, 2006 by the Appeals Tribunal Arbitrator, Professor Richard H McLaren. Unfortunately my appeal was dismissed with the Arbitrator assigning superiority to the negative evidence of the policy's absence from the Stato Fine 1936 ledgers. Contrary to this, my explanations to the policy's absence, part of it based the information appearing on the water copy of the policy has been dismissed as "anecdotal evidence" only (paragraph 30 of the Award). The Arbitrator states that I failed "***to provide any evidence of a sufficiently particularised nature to rebut the [negative] evidence of Generali's records***" (paragraph 37 of the award). It appears, that the Arbitrator is not aware of the tremendous difference between the possibilities of an elderly Holocaust survivor vs. the possibilities of a giant insurance company in providing evidence from the Holocaust Era.

The Arbitrator also did not consider in his award the material which I sent before the hearing to Ms. Morag Baird from ICHEIC' Appeals Office London. The material included:

a) A report by Mr. Thomas Jelinek on Insurance in Nazi Occupied Czech Lands indicating the problems and complexity of the Insurance Industry in Pre-War Czechoslovakia and showing that the Assicurazioni Generali was active in the country under 4 different names. (Mr. Jelinek was an aide to the Czech President Mr. Vaclav Havel).
b) Testimony of Ms. Leslie Tick from the California Dept. of Insurance before the US House of Representatives Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations on September 24, 2002. Ms. Tick states, that **the policies published after a thorough screening** on the ICHEIC list from Generali source **were "unpaid" policies.** (on page 40 of the Hearing Report).
c) Testimony of Mr. Christopher Carnicelli, President and CEO of Generali US Branch before the US House of Representatives Committee on Government Reform of September 12, 2003. Mr. Carnicelli describes the two databases available to Generali: an archive of "water copies" and a general accounting ledger. There is no mentioning of any superiority of the ledger above the "water copies",

which would in fact render them superfluous, applying the principle of "negative evidence" (on page 218 of the Hearing Report).

d) There are 2 more documents, from the same Hearing before the US House of Representatives, both criticizing sharply the practice of negative evidence being used as an excuse for rejection of claims:
    1) Statement of Michael J. Bazyler, Professor of Law, Whittier Law School, Costa Mesa, California (Prof. Bazyler presents the case of Ms. Iga Pioro, whose claim was also rejected on the same grounds of "negative evidence" on page 159 of the Hearing Report).
    2) Testimony of Mr. John Garamendi, California Insurance Commissioner (on page 233 of the Hearing Report)

Generali's central argument (reflected and upheld also in the Arbitrator's decision), was the superior validity of the Stato Fine 1936 ledgers as negative evidence for denying claims concerning insurance policies absent from the ledgers. This validity is formalistically excused by claiming, that the ledgers have been audited by the ICHEIC process and therefore can be regarded as complete in order to be used as negative evidence. There is no indication about the way the audit was performed and there is no explanation how it can preclude the possibility of a policy's absence being caused by reasons other than surrendering or cancellation.

Being probably not far from reality, my impression is, that the absence of a policy from the Stato Fine ledgers was a main excuse for the rebuttal of claims by Generali. Both, ICHEIC and Generali, appear to have turned a deaf ear to the voices criticizing this attitude. Moreover, following clearly from Ms. Iga Piori's case, Generali used this practice from the very beginning of the ICHEIC process in year 2000 with Mr. Eagleburger's approval being granted "post factum" only in 2003/2004 (see Mr. Eagleburger's Memorandum dated March 26, 2004 and his testimony before the US House of Representatives Committee on Government Reform of September 12, 2003 on page 124 of the Hearing Report). This means, that instead of adapting the Generali procedure to the rules of ICHEIC, things happened to develop the other way round.

Lastly allow me to mention the allegations concerning the pressure put on arbitrators to apply a "phantom rule', shifting the burden of proof to claimant in cases when no written evidence existed. If such policy was applied, the appeals concerning Generali claims were probably no exception to this rule.

Your Honor, I hope that these materials will help in resolving the problems our claims are facing, by tipping the Balance of Justice in favor of us, the elderly Holocaust survivors, instead of favoring the giant insurance company.

Sincerely yours,

Hanna Hareli

Hanna Hareli

cc: Samuel J. Dubbin, Esq.

(1)

59001

149188

Mira, am 9. April 1930

Herrn Jakob WEISZ, Direktorz in Bratislava
Angabe Slov. Grob 25. Mai 1869.

Sechstausend Kronen - SECHSTAUSEND/KE 50.000:-/-
sofort beim Ableben des Versicherten an den Ueberbringer dieser Versicherungsurkunde, od
bestens am 20. April 1942/zweitausendneunhundertvierzig/ an den Versicherten selbst, wenn
er diesen Tag erlebt, auszuzahlen.

viertel-
Sechstausendsechshundertsiebenundsiebzig und 25/100 / KE 731.25/
20. Jänner, 20. April, 20. Juli und 20. Oktober
18/achtzehn/ dritten

20. April 1930

Herr Jakob WEISZ,
Bratislava /per Anglo Elementar Vers.A.G

25. April 1930.

20. Juli 1930 731.25
250.--
-29.45
1010.70

(2)

GENERALI
Assicurazioni Generali S.p.A.

Direzione Centrale
Policy Information Center

RACCOMANDATA

Mrs Hanna Hareli
C/o ELISHEVA ANSBACHER Adv.
16a King George Street
JERUSALEM 94229
ISRAEL

Mrs Madlen DAGAN
31 Krause Street
HOLON 58279
ISRAEL

Trieste, 15 FEB. 2006
ds No. 702/PIC

Re. ICHEIC Claim No. 92046 of Mrs Hanna Hareli

We are pleased to report to you that we have now completed the investigation of the above ICHEIC claim. We have searched all names contained in that form and on the basis of this search we have found the following life insurance policies issued by Assicurazioni Generali

1. Insured: Jakob Weisz
Date of birth: May 25, 1889

Policy No.: 119.188
Country of issuance: Czechoslovakia
Face amount and currency: 50,000 Czechoslovakian Crowns
Effective Date: April 20, 1930
Duration: 18 years

2. Insured: Bedrich Schwarz
Date of birth: September 17, 1900

Policy No.: 346.063
Country of issuance: Czechoslovakia, then transferred to Slovakia in 1940
Face amount and currency: 10,000 Czechoslovakian Crowns, converted into 10,000 Slovakian Crowns in 1940
Effective Date: December 1, 1937
Duration: 20 years

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Attached hereto is a copy of the water copies of the front pages of the above-mentioned policies, the only policy document available to us.

No other policies have been found for the other names indicated in Mrs Hanna Hareli's form.

Based on the information we found and on the valuation criteria described below, we are now able to offer a total payment of USD 3,137.48.

According to the information given to us, this amount will be divided among the following persons who appear to be the only eligible heirs to the above insured:

1. Hanna Hareli (50%)
2. Madlen Dagan (50%)

Status of the Policy/ies

Our records show that policy no. 346.063 was cancelled in 1940 for non payment of premiums. For your information, the payment of at least three yearly premiums was the minimum required for a policy to have a value. However, according to the ICHEIC criteria, this policy qualifies for payment.

By contrast, policy no. 119.188 does not appear in our portfolio records of 1936, the first available to us, or in those of the following years. Hence we cannot but conclude that it was either cancelled or surrendered before 1936. Consequently, since this policy was not in force during the Holocaust Era, no payment can be offered with respect to it. However, you may file an appeal against our decision for this policy even if you accept our offer payment for policy no. 346.063.

Decision to Pay

As you may know, Generali did not previously make payment under the policy because it concluded that owing to the nationalization of its businesses, it has no legal obligation or liability under any of the World War II-era policies, like the above-mentioned policy, issued in Eastern European countries. Nevertheless, Generali feels a moral concern for its former policyholders who suffered at the hands of the Nazis during this horrible period.

In that spirit, Generali has now agreed to make voluntary payments in respect of certain World War II-era insurance policies within the framework of the International Commission on Holocaust Era Insurance Claims (the International Commission or ICHEIC).

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Assicurazioni Generali S.p.A.

The International Commission Process

Generali, along with certain other major European insurance companies, representatives of the State of Israel and international Jewish Organizations, as well as representatives of United States and European Insurance Regulators, is a founding member of the International Commission on Holocaust Era Insurance Claims, an organization dedicated to providing a measure of compensation in respect to insurance policies issued to persons who were victims of Nazi persecution, their heirs and beneficiaries.

The International Commission has set up a claims process designed to handle insurance claims fairly, and for this purpose it has established certain guidelines to be adopted for the evaluation of claims.

However, we point out that in evaluating the claims, Generali has always applied the criteria established by the International Commission, irrespective as to whether the claim was filed through ICHEIC channels or directly to the Company.

Moreover, the procedures we use in our investigation have been subject to audit by independent auditors reporting directly to the International Commission.

You are, of course, free to accept or reject this offer If you accept it, we will immediately pay the amount offered. If you reject it, you may appeal as specified below.

Generali's Offer and the Valuation of the Policy

Based on the valuation criteria laid down by the International Commission, the beneficiary/ies of the policy/ies or his/her heirs will now be able to receive a total payment of USD 3,137.48 in respect of the policy/policies. Please, find enclosed the relevant valuation sheet.

In general terms, the Commission's valuation criteria for policies issued in Eastern Europe denominated in Eastern European currencies or originally denominated in Western currencies but converted into local currency work as follows:

- Full sum insured if the insured person died during the Holocaust or paid-up value calculated as of 1945 if the insured person survived after 1945;
- Minus loans and/or advanced payments taken out during the life of the policy (but before the beginning of the Holocaust Era) and not repaid (where applicable);
- Conversion of the net amount in local currency into US Dollars at the 1938 official exchange rate, but discounted by 30% in order to reflect the depreciation of local Eastern European currencies against the US Dollar;
- Appreciation of the amount up to 31 December 2000, by multiplying the Dollar value by 11.286 (i.e. x10 to appreciate the amount until December 31, 1998 + 5 87% interest for 1999 and 6.6% interest for 2000);

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- Appreciation up to two months after the date of issuance of the offer at the following interest rates, representing the yield of long term US government bonds for the relevant year:

  - for 2001: 5.40%
  - for 2002: 5.00%
  - for 2003: 4.75%
  - for 2004: 5.00%
  - for 2005: 5.00%

For any policy which might have been denominated in a Western currency (e.g US Dollar, Sterling Pound or Swiss Franc) and not converted into local currency, the monetary revaluation is calculated by applying multipliers from the year of the insured event, equally agreed upon by the International Commission, after deducting any loan not repaid which might have been taken out against the policy.

Additionally, if the valuation of a claim on a policy issued in Eastern Europe is below $1,000 the minimum payment will be $1,000; moreover, if the valuation is above $1,000, Holocaust survivors are entitled to a minimum of $2,000.

Please, note that if there is any error in calculation that would affect the amount you would be entitled to receive, Generali will pay you any increase due (but not seek any repayment if the error results in a decrease) in the amount now being offered.

In evaluating this offer, it might be helpful for you to consider that if a claim had been made at the termination date of the policy or at any time during or after the war (and if the policyholder's rights as well as Generali's business and assets had not been taken by Eastern European governments in a nationalization program), the policy would have been paid, if at all, in the local currency in which it was denominated. Given the effect of the economic collapse after World War II and the Communist take-over in Eastern Europe, the local currency became effectively worthless or could not be converted into hard currency. While no monetary amount can compensate for the immeasurable suffering endured by victims of Nazi persecution and their families, we note that these financial consequences suffered by all insureds in Eastern Europe during this period were the result of circumstances (like nationalizations and devaluations) beyond Generali's control. If you have any questions with respect to the calculation of the proffered amount or any other question, please call the International Commission at the telephone numbers on the enclosed sheet, or visit the ICHEIC website on www.icheic.org.

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Summary of Release Form

If you and/or any of the entitled claimants accept the above-listed offered amount, in order to receive any payment, you and/or all the other entitled persons must first fill in sign, notarize and mail back to Generali the enclosed Release Form.

The Release Form obligates you to waive certain legal rights in exchange for receiving payment on your Holocaust Era insurance policies.

The release form obligates you in the following basic ways:

- By accepting payment on a policy or policies, you waive all rights to sue the insurance company (which includes all insurance company officers, employees, subsidiaries and affiliates) on all listed policy or policies, and/or suing based on anything the insurance company did relating to that policy or policies.
- The release only applies to any policies identified herein or policies for which the results of the investigation have been communicated to you.
- You also waive any right of an ICHEIC (or other) appeal on those policies for which you have accepted an offer and received payment.
- The release remains in full force and effect even if you discover new or additional facts relative to any listed policy or policies.
- By signing the release, you are not only waiving *your* rights to sue, but also the rights of your successors, assigns and all relatives.

The release form obligates the insurance company in the following ways:

- The company will pay you on the policies referenced in the release in accordance with ICHEIC guidelines.
- The company will make any other additional payment determined to be due in accordance with ICHEIC guidelines.
- If there is an error in calculation, the company will still pay you any increase due in accordance with ICHEIC standards. (The company agrees that they will never seek a decrease in the payment if a miscalculation occurs).

This is only a basic summary of the release form. You should carefully read every provision of the release form, and consider consulting an attorney if you still do not understand your legal rights.

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Assicurazioni Generali S.p.A.

Appeal Process

If you do not agree with our decision, you are entitled to file an appeal via the International Commission. The enclosed *Appeals Tribunal - Guide to the Rules of the Procedure* provides an overview of the ICHEIC Appeals Process. We also have enclosed an Appeals Submission Agreement (ASA), which, if you choose to file an appeal, must be signed within 120 days of receiving this offer letter and sent to the following address, together with a written with statement with the reasons for your appeal:

ICHEIC Appeals Office
PO Box 18230
London
EC1N 2XA
Great Britain
Fax no. +44 207269 7303

Finally, we wish to stress all correspondence you submit regarding your appeal, and/or any questions related to the appeals process must be directed to the ICHEIC Appeals Office at the above address.

Bank Details

Please be advised that the payment will be executed by the International Commission. You are kindly requested to inform us of the way in which you wish the payment be made (e. g. by cheque, wire transfer, etc.). If you opt for a wire transfer, please do not forget to provide your full bank details.

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Conclusion

If you wish to receive the offered payment, sign and return the enclosed form. Please accept this payment in the spirit in which it is offered although we appreciate that the suffering of victims of Nazi persecution cannot be measured in currency.

If we can be of assistance in explaining the terms of the offer or in any other regard, please contact:

ASSICURAZIONI GENERALI S.p.A.
Direzione Centrale
Policy Information Center
Piazza Duca degli Abruzzi, 2
34132 TRIESTE
ITALY

Moreover, if you wish to contact the International Commission for additional information, you may call the free helpline, of which we enclose the list of telephone numbers.

Very truly yours,

ASSICURAZIONI GENERALI

Encl.

Cc ICHEIC London

(3a)

THE INTERNATIONAL COMMISSION ON HOLOCAUST ERA INSURANCE CLAIMS

APPEALS TRIBUNAL

Appeal Submission Agreement

A CLAIMANT	Your claim number 92046 for policy 119.188 only	C COMPANY	The Company to complete ASSICURAZIONI GENERALI
Name	HANNA MARCELI	Contact Name	ALBERTO TIBERIUM
Phone	972-3-5686382 Fax 972-3-5037429	Phone	Fax 39 40 671536

NOTE TO CLAIMANT: Complete boxes A and B only. Your signature is needed at B.

1 The Company has made a determination on the Claimant's Claim to an insurance policy. The Claimant is appealing that determination (the "Appeal"). The Claimant and the Company (the "Parties") agree to submit the Appeal to the Appeals Tribunal (the "Tribunal") for final resolution under the Commission's Appeals Tribunal Rules of Procedure (the "Rules"). The Appeal will be an arbitration which will be determined by an Arbitrator or Panel of Arbitrators in accordance with the Rules.

2 The Claimant and the Company have received and read, or had translated to them, a copy of the Guide, which summarizes the Rules and includes advice on how to obtain a complete copy. In the case of conflict between the Guide and the Rules the Rules prevail. Having reviewed the information made available to them, the Claimant and the Company understand and agree that in accordance with the Rules:

i. Appeals are free of cost to the Claimant. It is not necessary to appoint a lawyer or other person though either party may elect to be assisted by any person at its own expense. The Arbitrator(s) will make sure that the arbitration proceedings are fair to all Parties, whether or not they choose to be represented. Also, though an arbitration will generally be conducted on a documents only basis, an oral hearing may be requested and a Party may participate but at his, her or its own expense.

ii. The Company will not rely on or use as a defense any provisions of any laws or regulations barring, limiting or extinguishing a claim or a right to claim because of the time that has passed since the insurance policy was issued or matured.

iii. There is no right of appeal to the court on a question of law or fact arising out of an award made in the proceedings.

iv. Two or more Appeals that relate to the same policy or that are brought by the same Claimant may be joined.

v. The decisions of the Tribunal may be published, provided that such publication does not reveal the identity of any party.

(3a) Claim No. 92046 is an amalgamated claim
The appeal is concerning only decision on policy No. 119.188

3 The Parties further agree that this Appeal Submission Agreement shall be governed by and construed in accordance with English law and, in the event of disagreement, that the English language form of this Agreement controls.

B CLAIMANT'S Signature: Hamma Hamad	D COMPANY'S Authorized Signatory* [illegible]
Date: 29th May 2006	Date: 16/7/06 *for and on behalf of the Company

Send this form with your statement of grounds for appeal and any new information to:

ICHEIC – Attention Appeals Office, PO Box 18230, London EC1N 2XA, United Kingdom.
Please also mark your envelope in the bottom right hand corner; APPEALS OFFICE.

36

Reasons for Appeal
against the
Decision of GENERALI from 15th Feb. 2006 concerning ICHEIC claim No. 92046
on Policy No. 119.188, insured person Jakob Weisz.

I, Hanna HARELI, being the claimant in the ICHEIC claim No. 92046, wish to appeal against the above mentioned decision on grounds that will be explained below:

The decision mentioned two insurance policies:
1. Policy No.: 119.188
   Insured: Jakob Weisz
   Date of birth: 25th May 1889

2. Policy No.: 346.063
   Insured: Bedrich Schwarz
   Date of birth: 17th September 1900

The claim for policy No.: 346.063 on the name of Bedrich Schwarz was recognized by Generali, offering a total payment of USD 3137.48, which I am willing to accept. However the claim for policy No.:119.188 on the name of Jakob Weisz was rejected by Generali, with no payment offered.

Generali's argument for refusal, as stated in the decision was:
"...policy no. 119.188 does not appear in our portfolio records of 1936, the first available to us, or in those of the following years. Hence we cannot but conclude that it was either cancelled or surrendered before 1936. Consequently since this policy was not in force during the Holocaust Era, no payment can be offered with payment to it."

It appears, that Generali's argumentation is based solely on negative evidence, i.e., since they did not find the policy in their portfolio records of 1936 they concluded that the policy was either cancelled or surrendered. They provided no positive proof by producing a document, attesting that the act of cancellation or surrendering indeed took place.

According to the relaxed standards of proof stipulated by ICHEIC, I had to establish that it is plausible:
(1) That the insurance policy claimed was issued by the ICHEIC member company.
(2) That I am entitled to the proceeds of that policy.

Both facts have been established beyond any doubt. I was never required to establish the duration of the policy's validity.

Although the relaxed standards of proof apply also for a full or partial defense of the Company, it is doubtful if a negative evidence, i.e. arguing that the policy simply does not appear any more on the Company's records as from 1936, can be considered as sufficient, even under a relaxed standard of proof. One has to bear in mind the inequality between the Claimant and the Company: Whereas the Company has an unlimited access to all it's existing records, the Claimant usually has no such advantage, being denied to view freely the Company's or other databases (e.g. List of policyhholders deposited at Yad Vashem). The Claimant also searched in vain

through the documents at the Slovak National Archive (SNA) in Bratislava, which contains various information about insurance companies active in Slovakia before and during wartime (incl. Generali), being told, that the companies did not surrender to SNA any databases of the policies issued.

The claimant also wishes to state, that according to her knowledge of the family history, Jacob Weisz was a wealthy businessman and for several years also a bank director (as stated also in the water copy of the policy). It is therefore implausible, that he would cancel or surrender the policy, something which is done only in case of financial distress.

Hoping that my appeal and its grounds will be considered favorably,

Sincerely yours

Hanna Harell

Hanna Harell
41a Jabotinsky str.
58279 Holon
Israel

Att: Generali's decision.
Water copy of the policy No. 119.188

Copy: Advocate Elisheva Ansbacher

GENERALI
Assicurazioni Generali S.p.A.

Direzione Centrale
Policy Information Center

RECEIVED 20 JUL 2006

INTERNATIONAL COMMISSION
APPEALS OFFICE
PO Box 18230
LONDON, EC1N 2XA
UNITED KINGDOM

Trieste, July 14, 2006
rb No.3291 /PIC

Re: Appeal of Ms. Hanna Hareli (ICHEIC claim no. 92046 / Appeal no. 755)

Dear Sir/ Madam,

With reference to your letter of June 7, 2006 regarding the above appeal, which we received on June 14, 2006, we enclose herewith the following:

- Original Appeals Submission Agreement (ASA), countersigned by our Company representative

As communicated to the Appellant on February 15, 2006, our investigation has located policies nos. 119.188 and 346.063 issued by the Czechoslovak branch of Assicurazioni Generali to Jakob Weisz (May 25, 1889) and Bedrich Schwarz (September 17, 1900) respectively. The latter was cancelled in 1940 and, therefore, it qualifies for payment according to ICHEIC rules.

Since an offer for policy no. 346.063 was sent to the appellant, who has shown her willingness to accept it, this appeal can only concern policy no. 119.188; as this policy, which was issued in 1930, does not appear in our first complete accounting records of 1936, or in those of the subsequent years, it was either cancelled or surrendered before that date, and as such, does not qualify for payment under final ICHEIC guidelines.

After reviewing the statement of appeal we wish to provide additional clarifications with respect to our archives, which contain policy water copies (from before 1936) and accounting records, which begin in 1936.

With respect to our accounting records: Starting in 1936, the Home Office, based on the information sent by the branch offices, started to draw up mechanized ledgers containing all technical data on the policies, known as Stato Fine ledgers, for the calculation of reserves and the drawing up of yearly financial statements. Policy no. 119.188 does not appear in the first complete accounting of 1936, meaning that it left the portfolio before that date.

GENERALI
Assicurazioni Generali S.p.A

Moreover, the policy does not appear in our accounting ledgers of the subsequent years (i.e. 1937 through 1944) meaning that it definitively left our portfolio before 1936.

With respect to water copies of policies: In addition to accounting records, our archives also contain water copies (from before 1936). More specifically, our branch offices in Central and Eastern Europe- in this case the Austrian branch- provided the Home Office in Trieste with water copies of the policies issued, and no further policy documents. The water copy contained only the main data of the contract. On the other hand, the full policy, including the pre-printed Terms and Conditions, was given to the policyholder, and there was no need to send such information to Trieste. We have indeed been able to locate the water copy of policy no. 119.188, which indicates that the policy was issued in 1930.

Thus, between the policy water copy and our accounting records, we know that the policy in question was issued in 1930, but it left our portfolio before 1936, i.e. before the beginning of the Holocaust Era. Therefore no payment can be offered with respect to it.

We stress that our historical records (i.e. both policy copies and relevant accounting records) have been audited by two outside firms, one of which was appointed by and reported directly to the International Commission. On the basis of this examination, our records have been deemed reliable and our Company has been declared to be compliant with all ICHEIC claims processing rules and standards.

Best regards,

ASSICURAZIONI GENERALI

Enclosures (as referenced above)

(5)

Holon, 6th Aug.2006

The Appeals Office of
The International Commission
on Holocaust Era Insurance Claims
P.O.Box 18230
London EC1N2XA
United Kingdom

Dear Sirs/Madams

Re: Response of GENERALI, dated 14th July 2006, to my appeal no.755, claim no.92046 concerning policy no. 119.188

I wish to reply to the above mentioned response of GENERALI which I received on the 31st of July 2006:

Having accepted the offer for policy no. 346.063, it is correct, that this appeal concerns only policy no. 119.188.

However, I cannot accept the reasons given by GENERALI for rejecting policy no. 119.188, being only a reiteration of the grounds stated in their previous letter of 15th Feb. 2006, namely, that the policy issued in 1930 and appearing in their archive of water-copies, is not included in their first portfolio records of 1936, or in those of the following years. Hence, GENERALI proclaims: "...we cannot but conclude that it was either cancelled or surrendered before 1936. Consequently, since this policy was not in force during the Holocaust Era, no payment can be offered with respect to it" (Re: GENERALI letter of 15th Feb. 2006).

The response of GENERALI did not address the main reasons stated in my appeal:

1) That, according to the relaxed standards of proof, in order to succeed in an appeal, I had to establish as plausible:
   a)that the insurance policy claimed was issued by the ICHEIC member company
   b)that I am entitled to the proceeds of this policy
   Both requirements were fulfilled beyond any doubt. There is no requirement from the claimant to establish the duration of the policy's validity.
2) That the GENERALI did not provide any positive proof by producing a document, attesting, that the act of cancellation or surrendering indeed took place.
   Their argumentation is based solely on negative evidence, i.e., since they did not find the policy in their portfolio records of 1936 they concluded that the policy was either cancelled or surrendered.

According to paragraph (C.3) **Burden of Proof** of the Holocaust Era Insurance Claims Processing Guide:
"Once a claimant substantiates the existence of a policy, the burden shifts to the company to show the status of the contract, or to prove that the value of the contract has been adjusted or the contract has been paid." and:
"If a company asserts that it has already fulfilled its contractual obligation in relation to the policy, the company must meet its burden of proof by demonstrating, either from its own records or from external documentary evidence."

GENERALI explain, that their conclusions are founded essentially on two databases:

(a) An archive of water-copies of policies from before 1936.

(b) Mechanized ledgers containing all technical data on policies starting in1936.

Logically, there should exist a third data base, containing important information about the change in the status of the policies included in database (a), such as cancellation or surrendering of a policy. GENERALI do not explain the absence of such database, nor do they offer any reasons thereof. This appears to be contradicting the requirements of paragraph (C.3) with GENERALI failing to meet the burden of proof.

GENERALI operated in Czechoslovakia with various subsidiaries and under different names, among others: Assicurazione Generali in Trieste, Securitas, Moldavia-Generali, Moldavia-Generali-Securitas (as detailed in historical documents of the Slovak National Archives). GENERALI state in their letter of response, that the policy was issued by the Austrian Branch (Anglo Elementar Versicherung A.G.?), in spite of having a well established and extensive Czechoslovak operation of the central branch in Prague and their offices in Bratislava. Under those circumstances it cannot be ruled out, that the multiplicity of subsidiaries and branches, some of them operating in the territory of another, resulted in omissions and/or errors, causing eventually an absence of the policy in database (b).

If , according to GENERALI, the decisive criteria for proving the validity of a policy is solely its presence in database (b), why does the ICHEIC list include persons, marked as GENERALI policyholders, if their names appear only in database (a)? It can be concluded, that ICHEIC viewed database (a) as a valid and decisive source of information, otherwise only persons appearing in database (b) should be included and marked in the list as GENERALI policyholders.

GENERALI conclude their letter by referring to the audit of their records. With due respect to the auditing process, it could not disclose any problems that occurred in 1936 and might have caused a non-inclusion of a valid policy from database (a) in database (b). It is hard to believe, that even a most meticulous audit process performed recently could, beyond any reasonable doubt, attest the comprehensiveness and completeness of records compiled 70 years ago, especially bearing in view the entangled complexity of GENERALI's operations in the pre-war period.

To conclude my appeal, if negative evidence, based on the absence of a document should be considered, then, by the same token, the absence of a document, showing that the policy was cancelled or surrendered, should be also taken as an acceptable proof that the policy was valid during Holocaust. This appeal has to answer basically the question, whether the benefit of doubt should be awarded to the powerful insurance company (who already has the advantage of unlimited access to all records of information) , or to the claimant, who is herself an elderly Holocaust survivor.

Hoping, that the appeal will be decided in accordance with the principles of fairness and justice, I remain

Sincerely yours

Hanna Hareli

Hanna Hareli
41a Jabotinsky street, Holon 58279, Israel

GENERALI
Assicurazioni Generali S.p.A.

Direzione Centrale

Policy Information Center

INTERNATIONAL COMMISSION
APPEALS OFFICE
PO Box 18230
LONDON, EC1N 2XA
UNITED KINGDOM

RECEIVED 0 4 SEP 2006

Trieste, 30 AGO. 2006
rb No 4371/PIC

Re: Appeal of Ms. Hanna Hareli (ICHEIC claim no. 92046 / Appeal no. 755)

Dear Sir/ Madam,

We are writing with reference to additional correspondence regarding the above appeal, sent under cover of your letter of August 14, 2006 (received August 22, 2006).

We wish to inform you that we have reviewed the latest correspondence submitted by the Appellant and in particular the assertion "*Generali did not provide any positive proof attesting that the act of cancellation or surrendering took place*" We wish to stress that we do not know the actual reason why the policy left our portfolio indeed, day-to-day management of policies, including correspondence or reasons surrounding cancellation or surrender of a policy, concerned our local branch offices, and not the Home Office in Trieste, which kept essential policy data only The essential policy data in our possession, particularly our accounting records, which were audited twice, show us that this policy was not in force in 1936 or thereafter

Specifically, with reference to the Appellant's mistrust in the reliability and trustworthiness of our records, based on their alleged incompleteness, which would rule out the use of negative evidence, we want to reiterate that the use of negative evidence has been declared to be perfectly in line with the guidelines issued by the International Commission (see enclosure).

Finally, we wish to point out that these same records, which are now questioned by the Appellant, have been the basis of our offer of payment of USD 1,568.74 for policy no 346 063, which has been accepted by the Appellant and the other heir It is inherently contradictory to acknowledge and rely on our records when payment is offered for one policy and question their validity when no payment is offered on another policy. It is simply inconsistent to rely on our records on a selective basis.

Best regards,

ASSICURAZIONI GENERALI

Encl
cc Jose Menendez

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THE INTERNATIONAL COMMISSION ON HOLOCAUST ERA INSURANCE CLAIMS

1300 L Street, NW • Suite 1150 • Washington, DC 20005
202-289-4100 • 202-289-4101 fax
www.ICHEIC.org

MEMORANDUM

TO: Commissioners, Alternates, and Observers

FROM: Lawrence S. Eagleburger

DATE: March 26, 2004

RE: Chairman's Decision Re: Generali's Stato Fine Database

On June 16, 2003 I issued a decision stating that Generali's 1936 Stato Fine database should be regarded as complete. Completeness of this database enables Generali to use it as negative evidence in denying claims on its east European branches from 1936 onwards, but prior to the start of the Holocaust era in each country as specified in Schedule 1 of the Valuation Guidelines. In considering the matter further in relation to other countries including Greece, I have decided that Generali is justified in its use of the Stato Fine database. This is a single database containing records relating not only to the Standard 1 countries, but also to other territories for which original prints of the Stato Fine were available, notably Bulgaria, Greece, and Yugoslavia.

These countries were outside the scope of the Stage 1 audit, and therefore, by definition, Generali could not be regarded as audit compliant in respect of them. However, the audit was never intended to cover all countries in which the Axis powers were active, so the absence of an audit does not necessarily preclude the use of records, such as the Stato Fine, which *prima facie* have been compiled to the same standards as those for the Standard 1 countries. There will be selective sampling and testing at the Stage 2 audits of claims from other countries, including Greece, which are listed in the Addendum to the ICHEIC Audit Standards which was added in November 2002.

Holon, 12th Sept. 2006

The Appeals Office of
The International Commission on Holocaust Era Insurance Claims
P.O.Box 18230
London EC1N2XA
United Kingdom

Dear Sirs/Madams

Re: Response of GENERALI, from 30th August 2006, to appeal no.755, claim no.92046

I am presenting my reply with objections to the response of GENERALI of 30th August, which I received on the 11th of September 2006:

1) GENERALI admit: "We wish to stress **that we do not know the actual reason why the policy left our portfolio**; indeed day-to-day management of policies, including correspondence or reasons surrounding cancellation or surrender of a policy, concerned our local branch offices and not the Home Office in Trieste, which kept essential policy data only..." . **Such admission means, that GENERALI's conclusion, explaining the absence of the policy from the Stato Fine ledgers solely by surrender or cancellation, cannot be considered as being beyond any doubt.** There are abundant other reasons, that might have caused the absence of the policy from the Stato Fine ledgers, such as errors and omissions, policy being hold in escrow or deposited against a loan etc. I have already pointed out in my previous letter, that GENERALI operated in Czechoslovakia with various subsidiaries and under different names and that GENERALI, in their response from 14th July stated, that the policy was issued by their Austrian Branch, in spite of having central branches in Czechoslovakia, where the policy holder resided. Such situation could easily lead to an absence of the policy in the Stato Fine ledgers.
2) GENERALI are referring to a Memorandum issued by the Honorable Chairman of ICHEIC, Mr. Lawrence S. Eagleburger on the 26th June 2004. This Memorandum, "...enables Generali to use it as negative evidence in denying claims on its East European branches from 1936 onwards...". The sweeping application of the Memorandum in this case, as proposed by GENERALI, invokes the following reservations:
   - It is hard to believe that even a most meticulous auditing process performed in 2004 could attest beyond any reasonable doubt a 100% completeness of records compiled 70 years ago, especially bearing in mind the complexity of GENERALI's operations as described above. (It appears also, that Austria could be hardly considered as an Eastern European Branch).
   - The possibility of using the Stato Fine database as a negative evidence stated by the Memorandum **does not imply the automatic superiority of such evidence. The Memorandum only allows such evidence to be weighted against the evidence provided by the claimant.** (Otherwise it could lead to absurdities, such as rejecting claims for documented policies, with existing receipts for paid premiums, on the grounds of the policy's absence from the Stato Fine ledgers).

3) I strongly resent GENERALI's definition of my reservations as "...the Appelant's mistrust in the reliability and trustworthiness of our records, based on their alleged incompleteness...". **I certainly do believe in every positive evidence contained in GENERALI's records. If the records would contain any piece of documentation about the cessation of the policy, I would have accepted it. However I do have my legitimate reservations about GENERALI's claim to the ultimate superiority of the negative evidence, based on the absence of such document.**
   In addition to all the reasons stated before, my reservations are also backed by GENERALI's own explanations: "...day-to-day management of policies, including correspondence or reasons surrounding cancellation or surrender of a policy, concerned our local branch offices, and not the Home Office in Trieste, which kept essential policy data only...", This means, that GENERALI do not consider the records about cassation of a policy as essential and it is only the records concerning the initiation of a policy (e.g. water copies of policies issued), which are deemed as being important enough, to be kept by the Home Office. Such situation could be compared to a registry of population, containing only data about births, but without any information about deaths, assuming that such information is not essential.
4) By the same token I resent GENERALI's allegations about my selective approach to their records, accepting them as a proof for the payment of policy no.346.063 but rejecting them as an evidence for the invalidation of policy no. 119.188. This is an insinuation, accusing me, that my decision has been dependent only by the prospects of the more profitable choice (The two policies belong to two different persons, listed in two different claims, amalgamated by ICHEIC into one claim number). The reason for a different approach in both cases is clear and has been explained before:
   The payment for policy no. 346.043 has been based on a positive proof of the policy's existence, leaving no room for doubt, whereas the invalidation of policy no.119.188 was justified by GENERALI only by the negative evidence of the policy's absence. As I already said, if GENERALI would come forward with any documentation, proving cassation of the policy, I would have promptly agreed.

The scales of justice in my appeal contain on one side a positive proof, that policy no. 119.188 existed, being present in the GENERALI database of water copies, which is a solid and undeniable fact, free of any doubt. On the other side of the scales is only a negative evidence, based on the policy's absence from another database, called Stato Fine. Although such absence can lead to a conclusion, that the policy has been cancelled or surrendered, such conclusion cannot be regarded as being beyond any doubt. **The standards of ICHEIC approve the admissibility of such negative evidence, but do not grant it any automatic superiority against other evidence, including the presence of the policy in the water copy database. This can be inferred from the fact, that in the list of policyholders published by ICHEIC, every person included in the water copy database is marked as a GENERALI policyholder, regardless if his policy was present in the Stato Fine ledgers or not. Obviously, if an absence from Stato Fine ledgers would overrule the presence in the water copy database, only the names included in Stato Fine would be marked as GENERALI policyholders**. I sincerely hope, that the Honorable Appeals Tribunal will take in account these considerations and grant me the benefit of the doubts, however slight, arising from the arguments presented by GENERALI.

Sincerely yours

Hanna Hareli

Hanna Hareli
41a Jabotinsky street,
Holon 58279, Israel

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GENERALI
Assicurazioni Generali S.p.A.

RECEIVED 12 OCT 2006

Direzione Centrale
Policy Information Center

Via fax - 2 page

INTERNATIONAL COMMISSION
APPEALS OFFICE
PO Box 18230
LONDON, EC1N 2XA
UNITED KINGDOM

10 OTT. 2006

Trieste,
af No.4721/PIC

Re: Appeal of Ms. Hanna Hareli (ICHEIC claim no. 92046 / Appeal no. 755)

Dear Sir/ Madam,

With reference to additional correspondence regarding the above Appeal, sent under cover of your letter of September 19, 2006 (received September 22) we kindly ask you to refer to our latest correspondence (rb, no. 4371) dated August 30, where we have communicated all relevant information on the Appeal in question.

However, in specific regard to one of the reservations expressed by the Appellant in her latest submission under point one, in which Mrs Hareli ascribes the absence in our State Fine ledgers of policy no 119.188 to the fact that it was issued by the Austrian Branch of our Company whereas the policyholder resided in Czechoslovakia, we wish to point out that, as a matter of fact, the Branch office issuing said policy was indeed the Czechoslovak one and *not* the Austrian (as mistakenly communicated in the second page of our letter dated July 14). We apologize for this inadvertent typing mistake on our part, which was due to the huge amount of appeals we are currently processing. In the light of the above, the aforesaid objection, although logical from the Appellant's viewpoint, is based on an incorrect information that has now been clarified. Please, rest assured that this unintentional clerical oversight does in no way affect the correctness of what communicated in our letter of July 14 (nor in the one written a month and a half later). We therefore hereby confirm what stated in the above letters to which we have, in principle, nothing to add.

As to the Appellant resenting our remark on her selective approach on the trustworthiness of our records, may we underscore that it was merely meant to point out that the records used to locate Generali policy no. 346.043 for which an offer of payment has been sent to and accepted by the Appellant are the very same records endorsing the non-existence of policy no. 119.188 in our State Fine ledgers.

We trust our explanation has been of assistance and reiterate that this case has been investigated accurately and thoroughly.

Best regards,

ASSICURAZIONI GENERALI

cc Jose Menendez

(10)

THE INTERNATIONAL COMMISSION
ON HOLOCAUST ERA INSURANCE CLAIMS

[illegible] APPEALS OFFICE, PO BOX 14230, LONDON EC1N 2XA, UNITED KINGDOM

Fax +44 (0) 207 269 7301

Chairman Lawrence S Eagleburger

PRIVILEGED AND CONFIDENTIAL

18th October 2006

Appeal Number 755
Claim Number 92046

Mrs Hanna Hureli
C/o Elisheva Ansbacher Adv.
16a King George Street
Jerusalem 94229
Israel

Dear Madam,

Re: Appeal Scheduled For 23rd October 2006

Thank you for your letter dated 16th October 2006. We confirm it has been disclosed to the Respondent and to the Arbitrator.

In accordance with Article 17 as amended of the ICHEIC Appeals Tribunal Rules of Procedure the Appeals Office is required to exchange between the parties any information and documents provided to it by any party. Accordingly, please find enclosed the documents submitted by Generali. This documentation from Generali, and all previous information disclosed by you has been put before the Arbitrator. You are, of course, entitled to reply within 10 days from your receipt of this letter to Generali's information under Article 17.

In your letter of 16th October 2006 you express an intention to participate in an oral hearing. All ICHEIC Appellants are offered the opportunity to request an oral hearing. Appellants request oral hearings when they have further evidence, to provide to an Arbitrator. Usually Appellants have provided all of their evidence in document form (copies of policies, letters and written recollections). Accordingly, Arbitrators deal with the majority of ICHEIC appeals by reviewing the written materials alone, without a hearing.

When an oral hearing is requested, this is conducted by a telephone conference call. The Arbitrator, a representative from the insurance company, the Appellant and a staff member from the Appeals Office are linked on a conference call. Please note, the Respondent insurance company does not always elect to take part in an oral hearing, and cannot be compelled to do so.

The oral hearing is arranged at a time convenient to everyone, depending on the different time zones involved. There is no need for the Appellant to travel to a hearing: the Appeals Office simply telephones the Appellant to join them to the conference call.

During the oral hearing the Appellant gives his or her further oral evidence, the insurance company representative makes submissions, if any, and the Arbitrator asks any questions he or she may have in light of what has been said during the course of the hearing. The hearing is unlikely to take more than an hour, and could be shorter.

We hope you now have a clearer understanding of the procedure that is followed on an oral hearing. The Appeals Office will try to find a convenient date in the next few weeks for the oral hearing to take place. Please let us know if there are any days that are inconvenient for you around this time and confirm the telephone number you would like the Appeals Office to telephone to join you to such a hearing.

We look forward to hearing from you. When telephoning or writing please quote the above appeal number.

Yours sincerely,

Appeals Office
Enc. Letter from Geherali dated 10th October 2006

(11)

Sent by Fax and Mail

27th October 2006

The Appeals Office
The International Commission
on Holocaust Era Insurance Claims
P.O.Box 18230
London EC1N 2XA
United Kingdom

Re: Appeal no. 755, ICHEIC Claim no. 92046

Dear Sir/Madam

Thank you for your letter dated 18th October 2006 with your consent for an oral hearing. I shall be grateful for the arrangement of the oral hearing by phone at any date from the 14th November 2006 on, with the exception of 16th and 17th of November.

My phone number is: ++972-3-5058732. I request your kind permission, to allow my husband Mr. Mordechai Hareli to participate in the hearing due to his better command of the English language and to my impaired hearing capability.

Allow me also reply to the latest letter written by GENERALI from the 10th October 2006:

In this letter GENERALI are backtracking on their statement of 14th of July 2006, that the policy was issued by their Austrian branch office, referring to it as an "inadvertent typing mistake". GENERALI's correction came as a response to my argument, ascribing the non-appearance of policy no. 119.188 in the Stato Fine ledgers to the complicated mode of GENERALI's operation in pre-war Czechoslovakia. A policy issued by an Austrian office to a resident of Czechoslovakia could be definitely viewed as a symptom of such complexity.

I regret to inform you that GENERALI are erring again: The water copy of the policy states clearly that the policy was issued ***"per Anglo Elementar Vers. A.G."***.

The "Anglo Elementar Versicherungs A.G." was an Austrian Vienna based elementary insurance company, established in 1897 under the name "Oesterreichische Elementarversicherungs Actien-Gesellschaft". In 1921 the company changed its name to "Anglo-Elementar". The company merged in 1997 with the "Wiener Allianz" companies. (See attached information page of the "Wiener Allianz" from the Internet).

It appears, that the Anglo Elementar Versicherungs A.G. was an elementary insurance company, formally independent of GENERALI. Yet it acted on behalf of GENERALI and the water copies of policies sold by the Anglo Elementar were included in the archive of GENERALI's water copies. The complexity of those transactions is obvious and as a further illustration I should like to direct your attention to the handwritten remark on the water copy "Ohne Umleg Zuschlag" the approximate meaning in German being: "No Surcharges".

Under those circumstances GENERALI's attempt, assigning an ultimate superiority to the "negative evidence", should be overruled. There are many possibilities that could explain the fact, that the policy 119.188, sold in 1930 by Anglo Elementar, does not appear in GENERALI's Stato Fine ledgers established in 1936. GENERALI themselves admit in their letter of 30th August 2006: ***"We wish to stress that we do not know the actual reason why the policy left our portfolio..."***. Yet, of all the possibilities, they choose the one explanation convenient to them (as quoted in the GENERALI's decision letter dated 15th February 2006): ***"...we cannot but conclude that it was cancelled or surrendered before 1936"***.

Allow me to mention again, that JAKOB WEISZ was marked in the list published by ICHEIC as a GENERALI policyholder. If ICHEIC would assign an ultimate superiority to the "negative evidence" of a policy not appearing in the Stato Fine ledgers, assuming that the policy does not exist any more, logically the name of such a person would not have been marked as a GENERALI policyholder.

Finally, allow me to respond to GENERALI's statement, that the records, used to locate policy no. 364.043, for which a payment was offered and accepted by me, are the very same records endorsing the non-existence of policy no. 119.188 in the Stato Fine ledgers: The only difference between the decisions on policy 364.043 and on policy 119.188, in spite of being based on the same database, is, that in the first case the decision was based on a clear positive evidence, whilst in the second case the evidence was only negative, allowing speculative interpretations. There may exist numerous possible reasons for the occurrence of an event interpreted as "negative evidence" in the form of absent records, whereas for the occurrence of "positive evidence" in the form of an existing document, there is only one reason: that the policy was indeed issued. Similarly, if the Stato Fine ledgers would provide a "positive evidence" about the cessation of the policy no. 119.188 in the form of a document, or a written record, I would have accepted it immediately.

Sincerely yours

Hanna Hareli
41a Jabotinsky str.
58279 Holon, Israel
Fax: ++972-3-5037429
Phone: ++972-3-5058732
e-mail: harelihn@netvision.net.il

Attachments:
Information page about "Wiener Allianz" and the "Anglo Elementar Versicherungs A.G.
Water copy of policy no. 119.188

(12)

GENERALI
Assicurazioni Generali S.p.A.

RECEIVED 22 NOV 2006

United Kingdom Branch

Policy Information Center

INTERNATIONAL COMMISSION
APPEALS OFFICE
PO Box 18230
LONDON, EC1N 2XA
UNITED KINGDOM

Trieste,
am No.5029/PIC

Re: Appeal of Ms. Hanna Harell (ICHEIC claim no. 92046 / Appeal no. 755)

Dear Sir/Madam,

we are writing with reference to additional correspondence regarding the above Appeal, sent under cover of your letter of October 31, 2006 (received November 6).

While in principle we have nothing further to add to our previous correspondence, we note that the Appellant has reiterated her doubts on the completeness of our archives and ventured in her own explanation of the water copy of policy no. 119.188 of her uncle Jakob Weisz (born May 25, 1889). Please let us now add further details concerning this issue, so that the Appellant may be satisfied that the investigation of her case was in no way influenced by any gaps in our records.

First of all, the policy water copy only shows the main data of the policy and not the complete text of the contract. For clarity's sake, we are enclosing herewith a form policy in German language of what was a common contract in force in the 1920's-30's. As the Appellant will easily notice, most of the text was a pre-printed standard while the personal data of the policyholder/insured and insurance conditions were added by typing them into the blank spaces in the text. The phrase "per Anglo Elementar Vers. A.G." quoted by the Appellant belongs to a bigger paragraph which, as we can infer with a degree of certainty by comparing the water copy at issue with the form contract, would read as follows: "*Als Versicherungsnehmer wird* Herr Jakob Weisz *wohnhaft in* Bratislawa / per Anglo Elementar Vers. A.G. *von der Gesellschaft anerkannt*" [italics shows the full reconstructed text].

Thus, in the light of the aforesaid it appears clear that the indication of the name of the Austrian company "Anglo Elementar Vers. A.G." was merely an additional detail on the policyholder/insured, as confirmed by the use of the preposition "per" (short for "per Adresse") which in business German means "care of". This was only an additional detail provided by the policyholder/insured for the identification of his place of residence in view

of the collection of premiums. Indeed, we have been able to find out that this insured was a director of Anglo Elementar Vers. A.G., as evidenced in the *Compass* people's yearbook of 1931 (see enclosure), where this name is listed among the administrative officials and company directors of the time. The presence of this company's name on the water copy does not indicate that another company was related to the policy, nor can from this be deduced that Generali was a re-insurer of the policy or that Generali was in any other way linked to this company with respect to this policy. Indeed, in such cases this indication would be clearly legible and unambiguous. Thus, we confirm once again that this policy was issued by our Company under our Czechoslovak portfolio and that it does not appear in our first complete accounting records starting in 1936.

Lastly, but most importantly, may we add that the Austrian company "Anglo Elementar Vers. A.G.", operating in the non-life business, has never belonged to the Generali Group and any claim concerning this company would not involve us in any case.

We trust our explanation has been of assistance for the Appellant to allay all her doubts and reiterate that this case has been investigated accurately and thoroughly.

Best regards,

ASSICURAZIONI GENERALI

Encl.
cc Jose Menendez

C. C. I. Trieste N. [illegible]

[illegible] BERICHTET IM JAHRE [illegible]

Grundkapital: Lit. [illegible] — Gewährleistungsfonds: Lit. [illegible]

G. A. [illegible]	Tabelle [illegible]
P. N. [illegible]	Alter und Dauer 32/[illegible]

Versicherungsurkunde

№ [redacted]

über folgenden auf Grund des Antrages dd. [illegible] 1926 und der sonstigen schriftlichen Erklärungen des Versicherungsnehmers bzw. des Versicherten abgeschlossenen Versicherungsvertrag auf das Leben des Herrn [illegible] in [illegible], geboren [illegible] in [illegible] am [illegible]

Die ASSICURAZIONI GENERALI verpflichtet sich unter den in dieser Urkunde enthaltenen allgemeinen und besonderen Versicherungsbedingungen die Summe von

[redacted]

[illegible] am 15. November 1951 [illegible] an den Versicherten selbst, wenn er [illegible] oder wenn er früher sterben [illegible] an die Überbringer dieser Versicherungsurkunde.

Für diese Versicherung ist eine vierteljährliche Prämie von

[redacted]

nebst der gesetzlichen Stempelgebühr zu leisten, zahlbar am 15. Februar, 15. Mai, 15. August und 15. Dezember [illegible] eines jeden Jahres solange der Versicherte lebt, längstens jedoch [illegible] hindurch.

Die Versicherung beginnt unbeschadet der Bestimmung des § 2 der allgemeinen Versicherungsbedingungen, am 15. November 1926 mittags 12 Uhr.

Als Versicherungsnehmer wird Herr [illegible] von der Gesellschaft anerkannt wohnhaft in [illegible]

Prämie bis 15. Februar 1927 [illegible] 10.67 [illegible] New-York

Einmalige Gebühr	3.50
Stempelgebühr	[illegible]
Zusammen für [illegible]	Doll. 14.04 [illegible] New-York

Trieste, am 15. November 1926

ASSICURAZIONI GENERALI

[illegible]

Mod. [illegible]

Weiss (Weisz) Hermann sen., Kfm., Dunajská Streda, Slovak., Cechosl.
V.-R.: Erste Dunajská Stredaer Dampfmühle A.-G., Dunajská Streda.

Weiss Hugo, Prok., Wien, XIII., Eitlerg. 8.
Prok. d. Repr. Wien: „Intercontinentale" A.-G. f. Transport- u. Verkehrswesen, Triest, Repr. Wien.
Prok.: Caro & Jellinek, Speditions- u. Lagerhaus A.-G., Wien.
Prok. d. Zw.-Ndlg. Wien: M. de Brunne, Paris.

Weiss Hugo, Dir., Györ (Raab), Wennes-Jenö-tér 31, Ungarn.
Dir.: Raaber Walzmühle v. Hermann Back, A.-G., Györ.
Zens.: Ungar. Nationalbank, Fil. Györ.

Weiss (Weisz) Hugo, Prok., Vel. Bečkerek, Vojvode Mišića ul. 2, Dunavska ban., Jugosl.
Prok.: Vaterländische Mühlenindustrie A.-G., Vel. Bečkerek.

Weiss (Weisz) Ignatz, Bk.-Prok., Sevljuš, Karp.-Rußld., Cechosl.
Prok.: Sevljuser Volksbank A.-G., Sevljuš.

Weiss Ignatz, Dir., Zagreb, Savska ban., Jugosl.
Dir.-R. u. Dir.: Allgemeine Handels A.-G., Zagreb.

Weiß Ignatz Alexander, Dir., Wien, III., Beatrixg. 30.
Dir.-R.: Szalonaker Bergbau A.-G., Schlaining.
V.-R.: Tauchener Kohlen-Industrie A.-G., Schlaining, Bgld.

Weiss (Weisz) Ignaz, Kfm., Sala n. Váhom, Slovak., Cechosl.
Präs.: Kreditinstitut A.-G., Sala n. V.

Weiss (Weisz) Imre, Dr., Nové Zámky, Slovak., Cechosl.
Dir.-R.: Neuhäusler Eisfabrik u. Kühl-A.-G., Nové Zámky.

Weiss Isidor, Bukarest, Strada Alteniei 69.
V.-R.: „Gallia" Französisch-Rumänische Seidenweberei A.-G., Bukarest.

Weiss (Weisz) István, Dr., Bk.-Dir., Jászberény, Kom. Szolnok, Ungarn.
Gen.-Dir.: Jászygier Districts-Volksbank u. Sparcassa, Jászberény.

Weiss (Weisz) Jakob, Bratislava, Slovak., Cechosl.
Leiter: „Anglo-Elementar" Versicherungs A.-G. in Wien, Dir. f. d. Cechosl. Republik in Prag, Fil. Bratislava.

Weiss Josef, Dir., Wien, VII., Zieglergasse 28.
Dir. u. Prok.: „Elco"-Werke A.-G., Repräsentanz Österr., Repräsentanz Wien.

Weiss (Weisz) Josef, Bk.-Prok., Budapest, VIII., Baross-u. 80.
Prok.: Gewerbe- u. Handels Bank, Pesterzsébet.

Weiss (Weisz) Julius, Bk.-Prok., Budapest, VII., Dob-u. 78.
Prok. u. Vst. d. Devisen-Abt.: Pester Ungar. Commercial Bank, Budapest.

Weiss Julius, Wien, XVIII., Colloredog. 38.
Präs.: Vacuum Oil Company A.-G., Wien.
Präs.: Vacuum Oil Company A.-G., Prag.
Präs.: Vacuum Oil Company A.-G., Zagreb.
Präs.: Vacuum Oil Company A.-G., Dinsfler-Warschau.
Präs.: Vacuum Oil Company A.-G., Budapest.
Präs.: „Naphtacompagnie" Mineralöl-Vertriebs-A.-G., Prag.
Präs.: Benzin- u. Oel-Industrie-A.-G. „Kagran" vorm. Gustav Koenig & Co., Wien.

Weiß Julius, Kfm., Kolin, Böhm., Cechosl.
Präs.: Gaswerk-A.-G., Kolin.

Weiss Julius, Obm. d. Verb. d. Arbeiterschaft d. chem. Ind. Österr., Vst.-M. d. Bundes d. freien Gewerkschaften Österr., Vst.-M. d. Kammer f. Arb. u. Angestellte in Wien, Mitgl. d. Zollbeirates. Wien, XII., Gartenstadt „Am Tivoli", Meisnerweg 1.

(13)

THE INTERNATIONAL COMMISSION
ON HOLOCAUST ERA INSURANCE CLAIMS

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

Fax ++ 44 (0) 207 269 7303

Chairman Lawrence S Eagleburger

PRIVILEGED AND CONFIDENTIAL

18th December 2006

Appeal Number 755
Claim Number 92046

Mrs Hanna Hureli
41a Jabotinsky str.
58279 Holon
Israel

Dear Madam,

Re: Appeals Tribunal Award

The Arbitrator has made his decision on your appeal and a copy is enclosed for your information.

We can assure you that, including the independent Arbitrator's final decision, your claim has been handled fully in compliance with the standards agreed by ICHEIC.

As stated in the Guide to the Rules of Procedure and the Appeal Submission Agreement, the ICHEIC Appeals process provides for final resolution of claims. We need to advise that we are therefore not able to enter into correspondence on the Arbitrator's final decision.

Yours sincerely,

Morag Baird

Appeals Office

Enc: Award
cc: Generali

THE INTERNATIONAL COMMISSION ON HOLOCAUST ERA INSURANCE CLAIMS

THE APPEALS OFFICE, P.O. BOX 18230, LONDON EC1N 2XA, UNITED KINGDOM

Fax ++ 44 (0) 207 269 7303

ICHEIC APPEALS TRIBUNAL
Professor Richard H McLaren

APPEAL NUMBER 755
CLAIM NUMBER 92046

BETWEEN HANNA HARELI **APPELLANT**

and

ASSICURAZIONI GENERALI S.p.A. **RESPONDENT**

AWARD

I, Richard McLaren, duly appointed as Arbitrator in this Appeal, make the following FINDINGS OF FACT AND CONCLUSIONS OF LAW and enter the following AWARD pursuant to Article 27 of the ICHEIC Appeals Tribunal Rules of Procedure.

BACKGROUND

1. The Appellant is Hanna Harcli (née Schwarz, which was changed to Socher), who was born on 31st July 1937 in Račištorf, Slovakia. She also appeals on behalf of her sister, Magdalena Dagan. Her father was railway worker, Emil Schwarz (who changed his name to Socher), born on 23rd April 1902 in Trenčianska Teplá, Slovakia and died on 23rd December 1999 in the same place. The Appellant's paternal uncle was Fritz (or Bedrich) Schwartz born on 17th September 1900 in, what the Appellant believes, may have been Trenčianska Teplá. He lived in both Bratislava and Vienna and was as a merchant with his own shop. The Appellant's maternal aunt was Sara Weisz née Weissfeiler, who married Jakub Weisz (or Jacob Weiss). He was born on 25th May 1889 in Slovensky Grob, Slovakia and lived in Bratislava. He was the director of the local bank, Elso Magyar, until Nazi persecution in 1939. The Appellant's mother's cousin was Erwin Weissfeiler (also spelt Weiszfeiler, Weisfeiler or Weisspfeiler), who may have been born in Račištorf in 1909 and lived in Berlin. The Appellant's maternal grandfather was David Weiszfeiler, born 1862 in Račištorf. Her maternal grandmother was Joanna Weisfeiler née Schubert, born in 1873 in Stvrtok na Ostrove, Slovakia. Franzi Weisz (also known as Frantiska) née Weissfeiler was born between 1860 and 1870 in Račištorf. Karol Weisz was the Appellant's mother's uncle, born in Račištorf.

2. The Respondent is Assicurazioni Generali S.p.A. ("Generali").

3. The Appellant submitted six ICHEIC claim forms all dated 27th December 2001, for the proceeds of insurance policies issued to family members. She does not state on her claim form that the policies were life insurance policies or which companies may have issued the policies. The forms were processed under claim numbers 92046, 92048, 92050, 92052, 92053 and 92055 and subsequently merged into one file: claim number 92046.

4. Generali issued its final decision letter on 15th February 2006 informing the Appellant that it was able to locate life insurance policy numbers 119.188 and 346.063. In that letter Generali offers Hanna Hareli and Magdalena Dagan a total of US $3,137.48 for policy number 346.063. However, it denies the claim for policy number 119.188 on the basis that there was no record of the policy in its accounting records of 1936, suggesting that it had left Generali's portfolio before the beginning of the Holocaust Era.

5. The Appeals Office received the Appellant's Appeals Submission Agreement (ASA) and that of co-Appellant Magdalena Dagan, dated 29th May 2006. It was countersigned by Generali on 14th July 2006. The ASA evidences the parties' agreement to submit their dispute to the Tribunal for resolution.

6. I was appointed Arbitrator of this Appeal on 31st August 2006.

7. The Appeals Office notified the parties that the Appeal was scheduled for 23rd October 2006 and that they could give notice of participation by 16th October 2006. The Appellant requested an oral hearing, which took place on 23rd November 2006.

8. The Appeal is governed by the ICHEIC Appeals Tribunal Rules of Procedure (the Rules).

9. The seat of the Arbitration is London, England and this Award is made in London, England.

THE CLAIMS PROCESS

10. The Appellant submitted six ICHEIC claim forms on 27th December 2001. In section 3 of each of the forms, she does not state which insurance companies issued the policies. Furthermore, the Appellant was not able to submit any documentary evidence supporting her claims. The only information found in the claim forms is the names of the policyholders, heirs and further information in section 11.

11. In claim form 92046, the Appellant claims for the proceeds of an insurance policy held by her mother's cousin, Erwin Weissfeiler. The other heirs of Erwin Weissfeiler are given as Eva Kramer, Juli Grossman, Livia Posner, Magdalena Dagan and Danni Zimet. In section 11 of the claim form the Appellant supports her claim by stating, *"My mother's cousin Weissfeiler Erwin had a factory for manufacturing of photo films in Germany (Hamburg and Berlin). He was a wealthy man and probably had insurance policies from several companies. He was an unmarried bachelor till the holocaust."*

12. Claim form 92048 relates to an insurance policy purchased by the Appellant's father, Emil Schwartz. The co-heir is given as Magdalena Dagan. In support of her claim, the Appellant states in section 11 that, *"My father's name appears several times on your list (Schwarz Emil)[...]Unfortunately all our property documents including insurances were lost during the war. My father was also a high ranked employee of the Czechoslovak railways, and was also insured at the penston fund of railway employees. It is possible that he had insurance policies with private insurance companies, including Generali, and others."*

13. The next claim form is number 92050, in which the Appellant claims that her grandfather, David Weiszfeiler, was issued a policy. The co-heirs are stated as being Eva Kramer, Juli Grossman, Livia Posner, Magdalena Dagan and Danni Zimet. In section 11 she writes, *"My grandfather was married to Johanna née schubert – my grandmother. He was a wealthy man (owner of meat processing plant and cattle trading) and possibly had insurance policies from several companies."*

14. In claim form 92052, the Appellant names Jakub Weisz as the policyholder. Again, Eva Kramer, Juli Grossman, Livia Posner, Magdalena Dagan and Danni Zimet are named as heirs. In section 11 the Appellant states, *"The name of Weisz Jakub appears on your list. It is possible that he had insurance policies from several companies."*

15. Claim number 92053 relates to a policy taken out by the Appellant's paternal uncle, Fritz Schwarz. The only other heir is Magdalena Dagan. In section 11 the Appellant states as further information, *"My uncle's name, Schwarz Fritz, appears on your list. It is possible that he had insurance policies from several companies."*

16. The final claim form, number 92055, was completed for the proceeds of a policy issued to the Appellant's mother's uncle, Karol Weisz. Eva Kramer, Juli Grossman, Livia Posner, Magdalena Dagan and Danni Zimet are named his heirs, and in section 11 it is stated that, *"The name of Weisz Karol from Račištorf appears on your list. He was married to Franzi Weissfeiler, youngest sister of my grandfather Weiszfeiler David. It is possible that he had insurance policies from several companies."*

INVESTIGATION AND DECISION BY THE RESPONDENT

17. In its final decision letter on 15th February 2006, in which it encloses a copy of the water copy of the insurance policy, Generali advises the Appellant that it found the following life insurance policies:

1.	*Insured:*	*Jakob Weisz*
	Date of birth:	*May 25, 1889*
	Policy No.:	*119.188*
	Country of issuance:	*Czechoslovakia*

	Face amount and currency:	*50,000 Czechoslovakian Crowns*
	Effective Date:	*April 20, 1930*
	Duration:	*18 years*
2.	*Insured:*	*Bedrich Schwarz*
	Date of birth:	*September 17,1900*
	Policy No.:	*346.063*
	Country of issuance:	*Czechoslovakia, then transferred to Slovakia in 1940*
	Face amount and currency:	*10,000 Czechoslovakian Crowns, converted into 10,000 Slovakian Crowns in 1940*
	Effective Date:	*December 1, 1937*
	Duration:	*20 years*

"Our records show that policy no. 346.063 was cancelled in 1940 for non payment of premiums. For your information, the payment of at least three yearly premiums was the minimum required for a policy to have a value. However, according to the ICHEIC criteria, this policy qualifies for payment." and the respondent offers the Appellant US $ 3,137.48.

However, Generali goes on to explain that, *"By contrast, policy no. 119.188 does not appear in our portfolio records of 1936, the first available to us, or in those of the following years. Hence we cannot but conclude that it was either cancelled or surrendered before 1936. Consequently, since this policy was not in force during the Holocaust Era, no payment can be offered with respect to it."*

THE APPEAL

18. The Appeals Office received the Appellant's Appeal Submission Agreement (ASA) dated 29th May 2006, in which she states her grounds of appeal as follows:

"It appears, that Generali's argumentation is based solely on negative evidence, i.e., since they did not find the policy in their portfolio records of 1936 they concluded that the policy was either cancelled or surrendered. They provided no positive proof by producing a document, attesting that the act of cancellation or surrendering indeed took place.

According to the relaxed standards of proof stipulated by ICHEIC, I had to establish that it is plausible:
(1) That the insurance policy claimed was issued by the ICHEIC member company.
(2) That I am entitled to the proceeds of that policy.

Both facts have been established beyond any doubt. I was never required to establish the duration of the policy's validity.

Although the relaxed standards of proof apply also for a full or partial defense of the Company, it is doubtful if a negative evidence, i.e. arguing that the policy simply does not appear any more on the Company's records as from 1936, can be considered as sufficient, even under a relaxed standard of proof. One has to bear in mind the inequality between the Claimant and the Company: Whereas the Company has an unlimited access to all it's existing records, the Claimant usually has no such advantage, being denied to view freely the Company's or other databases (e.g. List of policyhholders deposited at Yad Vashem). The Claimant also searched in vain though the documents at the Slovak National Archive (SNA) in Bratislava, which contains various information about insurance companies active in Slovakia before and during wartime (incl. Generali), being told, that the companies did not surrender to SNA any databases of the policies issued.

The claimant also wishes to state, that according to her knowledge of the family history, Jacob Weisz was a wealthy businessman and for several years also a bank director (as stated also in the water copy of the policy). It is therefore implausible, that he would cancel or surrender the policy, something which is done only in case of financial distress."

19. Generali responded to the Appeal on 14th July 2006, in which it confirms its final decision. It further goes on to explain that:

*"**With respect to our accounting records:** Starting in 1936, the Home Office, based on the information sent by the branch offices, started to draw up mechanized ledgers containing all technical data on the policies, known as Stato Fine ledgers, for the calculation of reserves and the drawing up of yearly financial statements. Policy no. 119.188 does not appear in the first complete accounting of 1936, meaning that it left the portfolio before that date. Moreover, the policy does not appear in our accounting ledgers of the subsequent years (i.e. 1937 through 1944) meaning that it definitively left our portfolio before 1936.*

***With respect to water copies of policies:** In addition to accounting records, our archives also contain water copies (from before 1936). More specifically, our branch offices in Central and eastern Europe- in this case the Austrian branch- provided the Home Office in Trieste with water copies of the policies issued, and no further policy documents. The water copy contained only the main data of the contract. On the other hand, the full policy, including the pre-printed Terms and Conditions, was given to the policyholder, and there was no need to send such information to Trieste. We have indeed been able to locate the water copy of policy no. 119.188, which indicates that the policy was issued in 1930.*

Thus, between the policy water copy and our accounting records, we know that the policy in question was issued in 1930, but it left our portfolio before 1936, i.e. before the beginning of the Holocaust Era. Therefore no payment can be offered with respect to it."

20. The Appellant made a further submission, dated 6th August 2006, in which she states that "*GENERALI did not address the main reasons stated in my appeal.*"

referring to points made in her previous letter. She goes on to assert the following:

*According to paragraph (C.3) **Burden of Proof** of the Holocaust Era Insurance Claims Processing Guide:*
"Once a claimant substantiates the existence of a policy, the burden shifts to the company to show the status of the contract, or to prove that the value of the contract has been adjusted or the contract has been paid." and:
"If a company asserts that it has already fulfilled its contractual obligation in relation to the policy, the company must meet its burden of proof by demonstrating, either from its own records or from external documentary evidence."
GENERALI explain that their conclusions are founded essentially on two databases:

(a) An archive of water-copies of policies from before 1936.
(b) Mechanized ledgers containing all technical data on policies starting in 1936.

Logically, there should exist a third data base, containing important information about the change in the status of the policies included in database (a), such as cancellation or surrendering of a policy. GENERALI do not explain the absence of such database, nor do they offer any reasons thereof. This appears to be contradicting the requirements of paragraph (C.3) with GENERALI failing to meet the burden of proof."

The Appellant also states that:

If, according to GENERALI, the decisive criteria for proving the validity of a policy is solely its presence in database (b), why does the ICHEIC list include persons, marked as GENERALI policyholders, if their names appear only in database (a)? It can be concluded, that ICHEIC viewed database (a) as a valid and decisive source of information, otherwise only persons appearing in database (b) should be included and marked in the list as GENERALI policyholders.

GENERALI conclude their letter by referring to the audit of their records. With due respect to the auditing process, it could not disclose any problems that occurred in 1936 and might have caused a non-inclusion of a valid policy from database (a) in database (b). It is hard to believe, that even a most meticulous audit process performed recently could, beyond any reasonable doubt, attest the comprehensiveness and completeness of records compiled 70 years ago, especially bearing in view the entangled complexity of GENERALI's operations in the pre-war period.

To conclude my appeal, if negative evidence, based on the absence of a document should be considered, then, by the same token, the absence of a document, showing that the policy was cancelled or surrendered, should be also taken as an acceptable proof that the policy was valid during Holocaust. This appeal has to answer basically the question, whether the benefit of doubt should be awarded to the powerful insurance company (who already has the advantage

of unlimited access to all records of information), or to the claimant, who is herself an elderly Holocaust survivor."

21. The Respondent wrote to the Appellant on 30th August 2006 in which it responds directly to the Appellant's assertions:

"We wish to stress that we do not know the actual reason why the policy left our portfolio: indeed, day-to-day management of policies, including correspondence or reasons surrounding cancellation or surrender of a policy, concerned our local branch offices, and not the Home Office in Trieste, which kept essential policy data only. The essential policy data in our possession, particularly our accounting records, which were audited twice, show us that this policy was not in force in 1936 or thereafter.

Specifically, with reference to the Appellant's mistrust in the reliability and trustworthiness of our records, based on their alleged incompleteness, which would rule out the use of negative evidence, we want to reiterate that the use of negative evidence has been declared to be perfectly in line with the guidelines issued by the International Commission [...]

Finally, we wish to point out that these same records, which are now questioned by the Appellant, have been the basis of our offer of payment of USD 1,568.74 for policy no. 346.063, which has been accepted by the Appellant and the other heir. It is inherently contradictory to acknowledge and rely on our records when payment is offered for one policy and question their validity when no payment is offered on another policy. It is simply inconsistent to rely on our records on a selective basis."

22. By her letter dated 12th September 2006, the Appellant makes the following objections to the Respondent's submission:

Firstly, as to Generali's explanation that it is unaware of how a policy might leave the portfolio: "***Such admission means, that GENERALI's conclusion, explaining the absence of the policy from the Stato Fine ledgers solely be surrender or cancellation, cannot be considered as being beyond any doubt.***"

Secondly, the Appellant questions the reliance on the audit of Generali's files by stating that, *"It is hard to believe that even though a most meticulous auditing process performed in 2004 could attest beyond any reasonable doubt a 100% completeness of records complied 70 years ago, especially bearing in mind the complexity of GENERALI's operations. (It appears also, that Austria could be hardly considered as an Eastern European Branch)."*

Next, as to negative evidence from the Stato Fine report, the Appellant comments that "***The Memorandum only allows such evidence to be weighted against the evidence provided by the claimant.***" She goes on to comment that, "***I certainly do believe in every positive evidence contained in GENERALI's records. If the records would contain any piece of documentation about the cessation of the policy, I would have accepted it. However I do have my legitimate reservations about GENERALI's claim to the ultimate superiority***

<u>of the negative evidence, based on the absence of such document</u>." She asserts that "*GENERALI do not consider the records about cassation of a policy as essential and it is only the records concerning the initiation of a policy (e.g. water copies of policies issued), which are deemed as being important enough, to be kept by the Home Office.*"

23. In a letter dated 10th October 2006, the Respondent provided the following information:

"[...] *in specific regard to one of the reservations expressed by the Appellant in her latest submission under point one, in which Mrs Hareli ascribes the absence in out Stato Fine ledgers of policy no 119.188 to the fact that it was issued by the Austrian branch of our Company whereas the policyholder resided in Czechoslovakia, we wish to point out that, as a matter of fact, the Branch issuing said policy was indeed the Czechoslovak one and* not *the Austrian (as mistakenly communicated* [...]).

"*As to the Appellant resenting our remark on her selective approach on the trustworthiness of our records, may we underscore that it was merely meant to point out that the records used to locate Generali policy no 346.043 for which an offer of payment has been sent to an accepted by the Appellant are the very same records endorsing the non-existence of policy no. 119.188 in our Stato Fine ledgers*".

24. The Appellant responded to Generali's letter on 27th October 2006, stating her objections as such:

"[...] *In this letter GENERALI are backtracking on their statement of 14th July 2006, that the policy was issued by their Austrian branch office, referring to it as an "inadvertent typing mistake". GENERALI's correction came as a response to my argument, ascribing the non-appearance of policy no. 119.188 in the Stato Fine ledgers to the complicated mode of GENERALI's operation in pre-war Czechoslovakia. A policy issued by an Austrian office to a resident of Czechoslovakia could be definitely viewed as a symptom of such complexity.*

"*I regret to inform you that GENERALI are erring again: The water copy of the policy states clearly that the policy was issued "per Anglo Elementar Vers. A. G.".*

"*<u>The "Anglo Elementar Versicherungs A. G." was an Austrian Vienna based elementary insurance company</u>, established in 1897 under the name "Oesterreichische Elementarversicherungs Actien-Geselschaft". In 1921 the company changed its name to "Anglo-Elementar". The company merged in 1997 with the "Wiener Allianz" companies* [...]

"*It appears that the Anglo Elementar Versicherungs A.G. was an elementary insurance company, formally independent of GENERALI. Yet it acted on behalf of GENERALI and the water copies of policies sold by the Anglo Elementar were included in the archive of GENERALI's water copies. <u>The complexities of those transactions is obvious</u> and as further illustration I should like to direct*

you attention to the handwritten remark on the water copy: "Ohne Umleg Zuschlag" the approximate meaning in German being: "No Surcharges".

*"Under those circumstances GENERALI's attempt assigning an ultimate superiority to the "negative evidence", should be overruled. There are many possibilities that could explain the fact that policy 119.188, sold in 1930 by Anglo Elementar, does not appear in GENERALI's Stato Fine ledgers established in 1936. GENERALI themselves admit in their letter of 30th August 2006: **"We wish to stress that we do not know the actual reason why the policy left our portfolio..."**. Yet of all the possibilities, they chose the one explanation convenient to them [...] **"we cannot but conclude that it was cancelled or surrendered before 1936"**.*

"[...] The only difference between the decision on policy 364.043 and on policy 119.188, in spite of being based on the same database, is, that in the first case the decision was based on a clear positive evidence, whilst in the second case the evidence was only negative, allowing speculative interpretations [...] if the Stato Fine ledgers would provide a "positive evidence" about the cessation of the policy no. 119.188 in the form of a document or a written record, I would have accepted it immediately".

25. In a letter received by the Appeals Office on 22nd November 2006, Generali offered the following clarification in response to the Appellant's letter of 27th October 2006:

" First of all, the policy water copy only shows the main data of the policy and not the complete text of the contract [...] The phrase "per Anglo Elementar Vers. A.G." quoted by the Appellant belongs to a bigger paragraph which, as we can infer with a degree of certainty by comparing the water copy at issue with the form contract, would read as follows: "Als Versicherungsneher wird *Herr Jakob Weisz* wohnaft in *Bratislava / per Anglo Elementar Vers. A.G. von der Gesellschaft anerkannt*" [...].

"Thus, in light of the aforesaid it appears clear that the indication of the name of the Austrian company "Anglo Elementar Vers. A.G." was merely an additional detail on the policyholder / insured, as confirmed by the use of the preposition "per" (short for "per Adresse") which in business German means "care of". This was only an additional detail provided by the policyholder / insured for the identification of his place of residence in view of the collection of premiums. Indeed, we have been able to find out that this insured was a director of Anglo Elementar Vers A.G., as evidence in the Compass *people's year book of 1931 [...] The presence of this company's name on the water copy does not indicate that another company was related to the policy, nor can from this be deducted that Generali was a reinsurer of the policy or that Generali was in any other way linked to this company with respect to this policy. Indeed, in such cases this indication would be clearly legible and unambiguous. Thus, we confirm once again that this policy was issued by our Company under our Czechoslovak portfolio and that it does not appear in our first complete accounting records starting in 1936.*

"Lastly, but most importantly, may we add that the Austrian company "Anglo Elementar Vers. A.G., operating in the non-life business, has never belonged to the General Group and any claim concerning this company would not involve us in any case".

26. In response to Generali's letter, the Appellant submitted a document entitled *"The Holocaust Phenomenon: Insurance in the Nazi Occupied Czech Lands"*, by Tomas Jelinek, under cover of a letter dated 23rd November 2006. The Appellant made particular reference to a section that illustrated *"the complexity of Czechoslovakia's insurance business and GENERALI's operation"*.

27. Prior to the oral hearing on 23rd November 2006, the Appellant submitted a further document on 23rd November entitled, *"Holocaust Era Insurance Restitution After AIA v. Garamendi: Where Do We Go From Here?"* in which Generali's use of negative evidence was brought in to question.

ORAL HEARING

28. The Appellant requested an oral hearing, pursuant to Article 11.3 of the Rules. I agreed to this request and the hearing was conducted by telephone conference call on 23rd November 2006. The Appellant and her husband, Mr. Mordechai Hareli, an ICHEIC Appeals Office Legal Advisor and I joined the telephone conference call from Israel, London, and Ontario respectively. The Respondent did not participate in the hearing, electing to rely instead on its written submissions in the Appeal.

29. During the course of the oral hearing, I heard submissions from Mr. Hareli on behalf of his wife. It was explained that Mrs. Hareli's uncle, Jakob Weisz, was not an ordinary policyholder. He was a director of another insurance company, Anglo Elementar, and as such it was to be expected that he knew the importance of life insuance. The Appellant's husband argued that the watercopy of policy number 119.188 appeared to reflect the fact that Jakob Weisz received preferential terms from Generali, as it is marked "No Surcharge" in German. It was suggested that premium payments for his policy were collected through Anglo Elementar. It was argued that because Jakob Weisz was no ordinary policyholder, his policy might not have been recorded in the Stato Fine records. It was wholly improbable that he would have cancelled a life policy.

30. Against this anecdotal evidence from the Appellant, and much criticism of Generali's reliance on negative evidence, i.e. the absence of an entry in its Stato Fine records as a basis to deny a claim, I must weigh the evidence what we do know about the policy issued to Jakob Weisz from the Respondent's records.

CONCLUSIONS OF LAW

31. The Respondent's records have established that the policy number 119.118 was issued to the Appellant's uncle Jakob Weisz in 1930 and a written record of a policy exists. The Appellant has, therefore, met her burden of proof, under Article 23.2 of the Rules, that a life policy was issued by the Respondent and she may be entitled to its proceeds.

32. Under Article 23.3 of the Rules, where a Claimant has satisfied the burdens set out in Article 23.2, the relevant Member Company has the burden of going forward with the evidence, under the same relaxed standards of proof, to establish as a full or partial defence to the claim on appeal that:

    (i) "the policy was cancelled for reasons independent of the Holocaust before the insured event occurred; or

    (ii) another person is entitled to the proceeds of the policy; or

    (iii) the proceeds of the policy claimed were paid, compensated or restituted, either in full or in part, to any of the policyholders, the person entitled to the proceeds of the policy upon the occurrence of the insured event or to one of their heirs or successors".

33. Generali's records indicate that the policy was cancelled or redeemed prior to 1936 and, therefore, does not belong to the Holocaust Era. The determinative issue in this case is whether the policy in question remained in force during the Holocaust era or whether it was cancelled or surrendered prior to the Holocaust era. Schedule 1 of the Valuation Guidelines in Annex III of the Rules states that the deemed date of the commencement of the Holocaust or Nazi persecution in Slovakia is 1939.

34. The Appellant has made efforts to find documentation regarding all the insurance policies claimed. However, the only documentation relevant to this Appeal is that discovered by the Respondent.

35. Generali was declared audit compliant in respect of Stage 1 with regard to its Eastern European branches on 21st November 2002. Generali's policy records, called the Stato Fine year-end listings, survive for 1936 to 1944 and have been data based for Czechoslovakia. The ICHEIC Audit Mandate Support Group has accepted the Stato Fine as being complete for negative evidence purposes: if a policy is established as having been issued by a branch but it is not listed in the Stato Fine prior to the Holocaust starting in a particular territory (in this case, 1939 in Slovakia), Generali may fairly conclude that it was paid out, cancelled or otherwise terminated.

36. The Relaxed Standards of Proof provide that companies may use any evidence available to them from their own records or external archives to prove the status of the policy. In this context "negative evidence" (i.e. an inference from the absence of a policy from certain company registers that the policy did not exist or was cancelled or paid) is in principle admissible in determining a claim and in

an appeal, subject to sufficient supporting evidence being available from the audit process or elsewhere, to show that the company records in question are trustworthy and comprehensive.

37. The Appellant questions the value of negative evidence. Whilst Generali may have been externally audited, negative evidence in not conclusive, and the Appellant has the opportunity to challenge it on this Appeal by submitting her own evidence. However, the Appellant fails to provide any evidence of a sufficiently particularised nature to rebut the evidence of Generali's records. Based on the evidence before me, I am not persuaded that the information provided by the Appellant overcomes Generali's evidence that the policy was either surrendered or cancelled before the Holocaust Era.

38. The Appellant also, in her letter dated 6th August 2006, refers to the two databases used as *"(a) An archive of water-copies of policies from before 1936"*, and *"(b) Mechanized ledgers containing all technical data on policies starting in 1936."* She asserts that, *"If, according to GENERALI, the decisive criteria for proving the validity of a policy is solely its presence in (b), why does the ICHEIC list include persons, marked as GENERALI policyholders, if their names appear only in (a)? It can be concluded, that ICHEIC viewed database (a) as a valid and decisive source of information, otherwise only persons appearing in database (b) should be included and marked in the list as GENERALI policyholders."*

39. The ICHEIC webpage list to which the Appellant refers has since been removed from the ICHEIC website and its content may be viewed at the Potential Holocaust Era Insurance Policyholders List at www.pheip.org ("the PHEIP list"). The information contained on the PHEIP list is based upon limited and fragmentary company records and was originally published on the ICHEIC website to encourage claimants to file claims with ICHEIC. However, the list was never intended to be a definitive source of policy information. The fact that a name appears on the list does not guarantee that the individual named or his or her heirs or beneficiaries would have qualified for payment under ICHEIC's guidelines had they filed a claim during the ICHEIC claims filing period. There may be instances where policies were issued to individuals with common names that multiple researchers might mistake as the individual listed in their inquiries. Additionally, an insurance company's investigation of a claim (where a claimant found a name on the website and filed a claim with ICHEIC during the claims filing period) may reveal that the claim was previously completely settled or paid, which would preclude further consideration of the claim under ICHEIC guidelines. Accordingly, the list's value as a source of policy information *per se* should be treated with care.

40. I am satisfied that Generali has made a thorough search of its records and that it has adequately demonstrated, by use of its audited archives, that policy number 119.188 was either cancelled or surrendered prior to the Holocaust era in Czechoslovakia. I accept the Respondent's evidence, which I have no cause to doubt, its Stato Fine records having been the subject of an ICHEIC independent audit.

I THEREFORE HOLD AND AWARD:

Appeal number 755 is dismissed.

Signed: Richard H. McLaren
Appeals Tribunal Arbitrator

Dated: 15th December 2006

(14)

Dear Ms Baird

I am sending you per fax the following documents. I apologize for sending them in their voluminous entirety but I have highlighted the relevant parts:

1) Mr. Tomas Jelinek's report on Insurance in Nazi Occupied Czech Lands indicating the problematics and complexity of the Insurance Business in Pre-War Czechoslovakia and showing that the Assicurazioni Generali Concern was active in the country under 4 different names.
(The report was faxed to you yesterday, bur this is a clearer print including the complete report)

2) Testimony of Ms. Leslie Tick, California Dept. of Insurance before the US House of Representatives Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations on September 24, 2002
Ms. Tick states in her testimony, that the Generali policies published on the ICHEIC list, from Generali source, after a thorough screening, were "unpaid" policies.
My uncle Jacob Weisz appeared on the ICHEIC list.

3) Testimony of Mr. Christopher Carnicelli, President and Chief Executive Officer Generali US. Branch before the US House of Representatives Committee on Government Reform on September 16, 2003
Mr. Carnicelli describes in his testimony the two databases available to Generali: an archive of "water copies" and a general accounting ledger.
There is no mentioning of any superiority of the general accounting ledger above the "water copies" (which would in fact render them superfluous according to the principle of "negative evidence").
(The relevant page of the testimony has been sent before the hearing to-day).

There are 2 more documents from the same hearing before the US House of Representatives Committee on Government Reform:

4) Statement of Michael J. Bazyler, Professor of Law, Whittier Law School, Costa Mesa, California US
5) Testimony of Mr. John Garamendi, California Insurance Commissioner

Both documents criticize sharply the practice of negative evidence ruling.

Although I fully understand the Appeals Tribunal's duty of adherence to the ICHEIC rulings and procedures, I also believe, that the ICHEIC admission of negative evidence did not grant it an ultimate superiority over other evidence, documented or circumstantial. Hence I am referring to these documents only in order to assign a proper weight to the negative evidence when it will be confronted on the scales of justice against the merits and special circumstances of my claim.

Thank you in advance for your help and also for a kind acknowledgment of this transmission

Sincerely yours
Hanna Harell

EXHIBIT 7

DUBBIN & KRAVETZ LLP

SAMUEL J. DUBBIN, P.A.
DIRECT (305) 357-9004
sdubbin@dubbinkravetz.com

October 25, 2007

VIA FAX

The Honorable Judge George B. Daniels
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: MDL 1374: Objectors' Comments on Proposed Notice After Remand

Dear Judge Daniels:

Pursuant to the Court's instructions on October 23, 2007, Objectors Jack Rubin, Alex Moskovic, David Mermelstein, Irene Mermelstein, Fred Taucher, and Hans Lindenbaum ("Objectors") submit the following comments to the new notice circulated by Mr. Swift.

1. On the summary page (Exhibit 1), there should be a statement right after the sentence about new claims stating: **"If your previous ICHEIC claim was denied or you received a "humanitarian payment" of $1,000 from ICHEIC, and you do not have any new evidence of a valid policy to support a new claim, your rights against Generali will likely be terminated unless you follow the steps to exclude yourself from the settlement."**

Similarly, on the long form notice, page 4, (Exhibit 2), the following statements should be inserted immediately after the Settlement Terms, and before the "Bad Arolsen" section:

> IF YOU PREVIOUSLY APPLIED TO THE ICHEIC, GENERALI, OR THE GENERALI TRUST FUND (GTF) AND YOUR CLAIM WAS DENIED, OR IF YOU DID NOT RECEIVE A FINAL DECISION

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TELEPHONE (305) 357-9036 • FAX (305) 371-4701

ABOUT A FAMILY POLICY, AND YOU DO NOT HAVE ANY NEW EVIDENCE OF A VALID POLICY TO SUBMIT AS PART OF A NEW CLAIM, YOUR RIGHTS AGAINST GENERALI WILL LIKELY BE TERMINATED UNLESS YOU FOLLOW THE STEPS TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

SIMILARLY, IF YOU RECEIVED A "HUMANITARIAN PAYMENT" FROM ICHEIC, AND YOU DO NOT HAVE ANY NEW EVIDENCE OF A VALID POLICY TO SUBMIT AS PART OF A NEW CLAIM, YOUR RIGHTS AGAINST GENERALI WILL LIKELY BE TERMINATED UNLESS YOU FOLLOW THE STEPS TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

When I made some of these suggestions to Mr. Swift prior to receiving his actual draft notice, he rejected them because they "violated the principle of neutrality." Objectors disagree. Rule 23 requires the notice to give class members adequate and complete information about their rights under the settlement, including not only the potential benefits but the fact that their claims against the settling defendant will be released if they stay in the settlement. *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d 1088, 1105 (5th Cir. 1977)("notice must also contain information reasonably necessary to make a decision to remain a class member and be bound by the final judgment or opt out of the action."). *See also In re General Motors Engine Interchange Litig.*, 594 F.2d 1106 (7th Cir. 1979). The only applicable "principle of neutrality" is that the notice must not make it appear that *the Court* is taking a position on the merits of the case or of the settlement. *Hoffman-La Roche, Inc., v. Sperling*, 493 U.S. 165, 174 (1989). Contrary to Mr. Swift's position, the currently drafted notice gives the appearance that the Court is encouraging class members to remain in the settlement, and to that extent it violates the "principle of neutrality." At a minimum, the notice must inform class

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members of the consequences of remaining in the settlement.[1]

The language suggested by Objectors is necessary to provide basic information to potential class about their rights under the settlement. It informs them that class counsel has agreed that ICHEIC was the definitive forum for class members to have their rights against Generali determined. It informs them that if they stay in the settlement, their rights against Generali would likely be terminated. This is basic information to which class members are entitled.

Mr. Swift said that he did not believe the suggested language was necessary because he was not aware of any rule that requires the class notice to "encourage opt outs." Although Objectors disagree with his characterization of the suggested language, there is no doubt that *this* settlement is unique in that thousands of class members' rights have been pre-judged prior to the dissemination of the notice. Class counsel decided that ICHEIC, Generali, and GTF decisions, made prior to the agreement itself, are final and determinative of class members' claims against Generali. Why shouldn't class members be informed that if they stay in the settlement when their ICHEIC claim was denied, their rights against Generali will be foreclosed if they do not opt out?

2. The language of the Claim Form (Exhibit 3) encourages "new claims" that are not likely to be approved when it states simply that "anecdotal evidence will be

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[1] There was some discussion at the hearing about the fact that the Second Circuit decision does not directly address the content of the notice on remand. Objectors' position is that the Court of Appeals decided the narrow issue of the dissemination of notice under Rule 23(c)(2)B) and left the substantive merits of the fairness, adequacy, and reasonableness of the settlement for decision in a future appeal. It should be noted, however, that the Court of Appeals' insistence on individual notice to all potentially affected class members will result in an entirely different response from the class than the prior publication by notice, including more and different objections, comments, and opt outs.

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considered." This implies, contrary to the record, that Generali might validate a claim based *solely* on anecdotal evidence. According to available information, the only basis on which Generali has validated claims under its interpretation of ICHEIC rules is when Generali or the GTF determined, based on *documentary evidence* supplied by a claimant or located in company records, that (a) a policy was in effect in 1936 for a family member the applicant can prove is his or her relative, and (b) the policy remained "valid" at the commencement of the Holocaust. It would be more accurate for the claim form to state: "You may submit a Claim even if your information is incomplete or you have no documentation since anecdotal information might assist Generali in locating documentary information about a valid family policy in its records."

However, it is also imperative that the claim form also contain the disclaimer similar to the one on the cover page of the notice: "Be advised that while you may submit a claim form even if a prior claim was denied by ICHEIC (The International Commission for Holocaust Era Insurance Claims), it is likely that the claim will be denied again unless the Claim Form includes new information supporting the existence of a valid policy."

3. Finally, there is an ambiguity at the end of the long form notice (Exhibit 4) whether objections need to be filed with the Court and postmarked by December 26, or whether the language should state that the objections should be filed or postmarked by that date. If a class member dispatches his or her letter of objection to the Court by mail, it should not be necessary to have to *file* it as well. Moreover, if both mailing and filing are required, it would be virtually impossible in most cases for survivors who mail their objection on the date of the deadline to file it with the Court on the same day. Although

this wording is a direct holdover from the last notice, it should be changed to make clear that objections must be postmarked or filed by December 26, 2007.

Respectfully submitted,

By: Samuel J. Dubbin, P.A.

Samuel J. Dubbin, P.A.
Florida Bar No. 328189

cc: Robert Swift, Esquire
Lawrence Kill, Esquire
Marco Schnabl, Esquire
Morris Ratner, Esquire
Nancy Sher Cohen, Esquire
Yisroel Schulman, Esquire

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EXHIBIT 8

07-1380-CV
RUBIN ET AL V ASSICURAZIONI GENERALI SPA

UNITED STATES COURT OF APPEALS for the SECOND CIRCUIT

In Re: Assicurazinoi Generali S.p.A. Holocaust Insurance Litigation APPEAL NO.07-1380

JACK RUBIN, ALEX MOSKOVIC, IRENE MERMELSTEIN,
FRED TAUCHER, HANS LINDENBAUM
Plaintiffs-Appellants

V

ASSICURAZINOI GENERALI S.P.A.
Defendants-Appellee

REQUEST FOR LEAVE TO FILE AMICUS CURIAE SUBMISSION BY ALBERT B. LEWIS

I respectfully request permission of the Court to appear as a friend of the court to urge this appeal tribunal to reverse the decision of the Honorable George B. Daniels approving a settlement in this matter releasing the Defendant herein and accepting a payment to a group of claimants. My submission may also be relevant to the appeal pending from Judge Mukasey's 2004 decision dismissing the cases on preemption grounds.[1]

I have no pecuniary interest in the disposition of this case neither as a claimant nor as an attorney. I am not expecting any remuneration for my actions in seeking to intervene as a friend of the court. My only motivation is that the settlement will result in the improper and unfair

[1] I am advised that this request would ordinarily be out of time under Federal Rule of Appellate Procedure 29(a) but I respectfully suggest that the Court has the authority to consider it under FRAP 2, and should do so because it will assist in a fair determination of the merits of the case.

denial of the claims of hundreds of claimants and windfall to the Defendant. This submission is based upon my experience as an appellate arbitrator for the International Commission for Holocaust Era Insurance Claims (ICHEIC) between 2003 and 2006.

I was the Superintendent of Insurance for the State of New York from 1978 to 1983. I have been in the practice of law from June 1954 specializing in insurance regulatory law. I was appointed as an arbitrator by the International Commission for Holocaust Era Insurance Claims (ICHEIC) on or about November 2003.

THE ICHEIC PROCESS IS FLAWED AND INEFFECTIVE AS A FAIR AND EQUITABLE VEHICLE FOR THE PAYMENT OF HOLOCAUST ERA INSURANCE CLAIMANTS

Testimony at a public hearing of the National Association of Insurance Commissioners on February 16, 1998 estimated that Jewish assets consisting of art works, patents, trade marks and insurance policies valued as of 1998 were worth $120 billion, the largest component of which were insurance policies. Sidney J. Zabludoff, an economist engaged by the International Commission for Holocaust Era Insurance Claims (ICHEIC) estimated that the value of Jewish owned policies as of 1938 was $570 million and using the U.S. Government bond yield would bring the value as of 2003 to $15 Billion .(A yield that is conservative since insurers' investments are in higher yielding investments as real estate, mortgages and other equities.) He also estimated that there was 875,000 life/annuity/endowment policies sold to European Jews prior to World War II 12 ½ % of which were sold by Assicurazioni Generali .

On March 20, 2007, ICHEIC reported the results of their processing 91,558 claims. It awarded payments to 14,186 of the claimants of $238.27 millions and $6.158 million to 385 claimants pursuant to decisions of the ICHEIC Appeals Tribunals. The total payments represented 15.91% of the claimants. They denied , however, 76,987 claims or 84 % of the total claims, and of these denied claims they made 34,158 humanitarian awards totaling $61.82 million. A total of $306.24 million was paid out by ICHEIC. Neither the press release nor any of ICHEIC's officials attempted to explain the wide disparity between the $15 Billion estimated

value of Jewish owned policies and the payment of $306.24 million, a little over 2% of the estimated policy values.

WHY THE ICHEIC PROCESS FAILED TO PROPERLY COMPENSATE THE HOLOCAUST SURVIVORS CLAIMANTS

Phantom Burden of Proof Rule dooms most survivors' claims.

In my experience as an arbitrator I witnessed bias against the claimants by ICHEIC's London office and especially as manifested by the administrator, Ms. Katrina Oakley. She demanded that ICHEIC arbitrators apply an erroneous and phantom burden of proof rule in deciding appeals, a rule that would force ICHEIC's arbitrators to deny an otherwise valid claim.

I was first appointed the arbitrator for two appeals of Hungarian Jewish policyholders. (I served as an arbitrator on other appeals as well.)

The claimants did not have any documentation of the issuance of their parents' policies. Each of their claim forms contained anecdotal evidence that their parents had purchased life insurance policies with Generali.

The claimants were forced into labor battalions by the rulers of Hungary who collaborated with the Nazis. After liberation they found that everything in their homes was destroyed. Generali denied their claims on the policies of their deceased parents stating that they could not find any record of their policies; although it admitted that the search of their records was incomplete since the archives relating to policies sold in Hungary "*are no longer in our possession.*" The claimants appealed.

I prepared two drafts of monetary awards granting the Hungarian claimants' appeals. My awards were based upon the rules of the Memorandum of Understanding (MOU). These were my first awards and I sent drafts of them to Katrina Oakley, the Law Administrator in ICHEIC's London office, to have it approved as to any administrative form requirements and to

pay the awards.

Her reply did not address the form of the award; instead she urged my reconsideration of the proposed awards and that I dismiss the appeals. *(See E-Mail from Oakley to Lewis dated 11/25/03, Lewis's answer in E mail dated 11/25/03, E-Mail from Oakley to Lewis dated 11/26/03 and Lewis's answer in E mail dated 12/10/03 and see Email from Lewis to Oakley dated 6/15/04 attached hereto).*

She claimed in her E-mail of 11/26/03 that my awards would set a "precarious precedent" and that the claimant had not shown that it was plausible that a policy was issued. She quoted the following burden of proof rule that I was to use for determining the appeals as though it was a bona fide rule that was adopted by ICHEIC:

> *"When no written record of a policy is produced by the Claimant and the Company which is stated to have issued it can find no record of its existence, the burden of proving* that a policy was issued is a **heavy one** for the Claimant." (Emphasis the writer.)

The direction and instructions to arbitrators are contained in the *International Commission for Holocaust Era Insurance Claims BRIEFING MANUAL*. It contains the Memorandum of Understanding signed by ICHEIC and the insurers including Assicurazinoi Generali (Generali).that encompassed their agreement that described the method for the handling claims of Holocaust survivors. **This document contained no rule that resembled in any manner or form that where no record of a policy is produced by the claimant and the company that the claimant's burden of proof is a heavy one. This rule is contrary to the intent of the MOU.**

The following are the ICHEIC promulgated rules to be followed by arbitrators that Ms. Oakley ignored in favor of her own phantom rule

The **Memorandum of Understanding (MOU)** included the following:

Paragraph 5. The IC shall establish a claims and valuation process to settle and pay individual claims that will be of no cost to the claimants. The initial responsibility for resolving Claims rest with the individual insurance companies, in accordance with guidelines promulgated

by the IC. The signatory companies shall submit to the IC all claims received directly by the companies within 30 days of receipt. The IC shall endeavor to integrate the data already collected by the various U.S. states into the overall process. Such process shall include the establishment of relaxed standards of proof that acknowledge the passage of time and the practical difficulties of the survivors, their beneficiaries and heirs in locating relevant documents, while providing protection to the insurance companies against unfounded claims. (Emphasis added.)

The Briefing Manual contained the following rules":

ICHEIC APPEALS PROCESS C-4

Standards of Proof (Page 21 of the ICHEIC Briefing Manual):

a) Relaxed Standards of Proof

Article 22: Admissibility

"22.1 Arbitrators shall admit all evidence ... available and shall afford any such evidence the appropriate weight, bearing in mind the circumstances of each case, the difficulties of tracing the documents and information and of proving or disproving the validity of a claim after the destruction caused by the Second World War and the Holocaust and the long time that has elapsed since the insurance policies were issued and the ordinary course of documentation retention policies followed by the Member Company"

b) Article 23 Burdens of Proof:

"23.1 Arbitrator shall weigh the evidence applying Relaxed Standards of Proof adopted by the ICHEIC.

23.2 To succeed in an Appeal the Claimant must establish that, based upon the Relaxed Standards of Proof, it is plausible:

i) that the insurance policy was issued by a Member company; and

ii) 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 to pursuant to the Succession Guidelines."

c) Relaxed Standards of Proof in Article 23.1 is defined in Article 35.18 as follows:

"Relaxed Standards of Proof: means the Standards of Proof presented at the March 1999 ICHEIC meeting and adopted by the Chairman in his Decision Memorandum of July 2, 1999 and amplified by memorandum of July 16, 1999."

d) **Article 23 Burdens of Proof Page 22 and 23 of the Manual**:

"4. It may become necessary for Arbitrators to consider the precise wording of these provisions in order to apply them in the circumstances of a particular case. However, in the majority of the cases the Arbitrators will be able to make their decisions on disputed issues of fact by assessing

the evidence put before them in a common sense way and in accordance with Article 23.

5. Arbitrators will also bear in mind the provisions of Article 24.1: Arbitrators shall determine the substance of any dispute, matter or issue raised in an Appeal that is not governed by the Succession Guidelines or the Valuation Guidelines in accordance with the principles of **equity and justice. (emphasis added)"**

e) **The ICHEIC Standards of Proof and the Decision Memoranda as contained in Tabs 4, 5 and 6 of the manual**:

Tab 4, the document entitled *Decision Memorandum on the Claims Resolution Process,* states:

"There is built in to the Standards wide latitude and flexibility. ... there has been debate over the proposition that any claim considered even if it is based exclusively on anecdotal or unofficial documentary evidence, should automatically be entitled to payment. While I do not accept this proposition, I am satisfied that the catch all provision in the standards of Proof is broad enough to allow such evidence to be considered in light of all of the surrounding evidence and circumstances although it does not ipso facto give rise to a valid claim."

Moreover, Tab 4 states :

"There has to be sufficient and adequate evidence of the contractual relationship with an insurance company ... But whatever evidence the claimant can offer and even if there is none—the Companies have undertaken as part of the claims process to carry out a thorough investigation of their records and where appropriate a search of outside archives to help the claimant find evidence of the contractual relationship even if they themselves have none."

A)The Relaxed Standards of Proof stated in page 21 C-4 of the Manual:

"satisfaction of the evidentiary requirement shall be determined in accordance with ICHEIC relaxed standards of proof, which are to be interpreted liberally **in favour of the Claimant." (emphasis added)** and also

B) Article 22 *Admissibility* "22.1 Arbitrators shall admit all evidence ... available and shall afford any such evidence the appropriate weight, bearing in mind the circumstances of each case, the difficulties of tracing the documents and information and of proving or disproving the validity of a claim after the destruction caused by the Second World War and the Holocaust and the long time that has elapsed since the insurance policies were issued ..."

To further pressure me, Ms. Oakley sent me copies of five awards of other arbitrators

denying appeals where the claimants had anecdotal but not documented proof of the issuance of a policy. In all of these denials each of the arbitrators used Ms. Oakley's "phantom rule":

Ms. Oakley was improperly attempting to influence my deliberations as an arbitrator and was in violation of her position as an objective administrator. This conduct is not only improper and prejudicial to the claimants but it is an insidious influence that affects the appeals process. It is evident that this phantom rule has caused the denial of claims that could have resulted in monetary awards.

In sum, Miss Oakley's rule was never accepted or promulgated by ICHEIC and she had no authority to promulgate any of ICHEIC's rules. Her "phantom rule" is a gross misstatement of the rules adopted by ICHEIC on the burden of proof. It places an erroneous and insurmountable burden on a claimant. It is materially and substantially different from the rules adopted and promulgated by ICHEIC and dooms the vast majority of the claimants who had no policy documentation.

It may very well be the case that Ms. Oakley's action was part of a pattern of bias against claimants that discouraged claimants from obtaining objective legal assistance in the preparation of the claim form and their representation of claimants. For example published material given to every claimant discouraged claimants from retaining counsel. ICHEIC circular entitled:

Frequently Asked Questions(4/2/01.2000) provided:

1. General Questions:

Do you need a lawyer? Answer: You do not need a lawyer, although you may use one if you wish or you may elect to be assisted by any person of your choice . We have designed the process to be as easy as possible. If you cannot fill in the form we will help you and answer any question you may have."

A competent attorney would realize that the denial of a client's award based upon Ms. Oakley's phantom rule, a rule that was not included in the MOU nor in the Briefing Manual and was contrary to the intent of the MOU would launch a review of her conduct. He or she could then have acted to petition for an order prohibiting this rule . Unfortunately, most claimants relied on ICHEIC's suggestion and they represent themselves. Had they engaged an attorney he

or she would have found that the ICHEIC's Manual contained rules that were directly contrary to Ms. Oakley's phantom rule.

The *Phantom Rule* of Ms. Oakley is evidence that ICHEIC was not "independent" as claimants were promised. In the ICHEIC's instructions form 3/2/01.2000, *How we Handle Your Claim* it states:

Paragraph 10 Appeals will be considered by independent panels set up by the Commission. Panels will examine all documents relating to any appealed claim decision and verify whether the company acted in accordance with the Commission's standards. (Emphasis added)

Based upon this paragraph a claimant would rely upon ICHEIC to form an independent panel. However, from my observations this reliance was often misplaced since claimants would have had no way of knowing that Ms. Oakley and others, acting behind the scenes were attempting to have the arbitrators apply standards for decisions that were never adopted by ICHEIC, contrary to ICHEIC's "relaxed standards" and detrimental to claimants.

Insurers Benefited From Failing to Maintain and Provide Records

This Court can, and I respectfully submit should take judicial notice of the Holocaust and its impact on the Jewish victims under Federal Rules of Evidence 201(b)(2) and 201(f) [2]. The claimants or their relatives have endured incarceration in concentration camps, on forced work battalions or in hiding in woods, cellars, and attics. Their ordeals began when they and their entire families were arrested with little or no warning and transported in cattle cars to concentration camps. These camps were designed to have the occupants succumb to hunger disease and brutality. The occupants had neither the opportunity or the motivation to obtain or maintain documentation of their insurance policies. At the time that they were arrested and taken from their homes they were only trying to survive. Too many of them were unsuccessful and of the few that survived they were liberated far from their homes, sick and without the where - withal to return to their homes. Those who returned invariably found homes empty, destroyed or

[2] See e.g. Nuremberg Trial 1946, 6F.R.D. 69 (1946); Private Insurers & unpaid Holocaust Era Insurance Claims, April 30, 1999, Deborah Senn, Washington State Insurance Commissioner.

occupied by hostile strangers.

The policyholders having entrusted their premiums to the life insurers reasonably would expect that their trusted life insurer would maintain their records and be available to pay their claims. Instead the insurers demanded that that the claimants produce documentation of their policies and a death certificate if the policyholder was deceased. In the case of almost all Holocaust claimants they were unable to provide documentary evidence that their policies existed. However, the best evidence of the issuance of a policy was the books and records of the insurer. To this day those records have not been made available to assist claimants.

The MOU held out a promise that there would be an audit procedure that would produce a "full accounting" of the insurers' handling of the policies of European Jews, as well as resolve claims where a claimant did not have documentation of a policy. ICHEIC totally failed to use this opportunity as part of its claim process.

In the MOU Paragraph 4 :

> The IC (the commission) shall initiate and conduct an investigatory process to determine the current status of those insurance policies issued to Holocaust victims during the period of 1920 to 1945 for which claims are filed with the IC. To assess the remaining unpaid insurance policies of Holocaust victims, a reasonable review will be made of the participating companies' files, in conjunction with information concerning Holocaust victims from Yad Vashem and the United States Holocaust Memorial Museum, and other relevant sources of data. The IC or its participating companies shall retain one or more internationally recognized auditing firms that operate in those countries where the above referenced insurance companies are based, and other experts as needed.
>
> a. The IC shall promulgate an audit mandate implementing the goal of this MOU. This mandate shall outline a work program for the audit firm(s). In addition to establishing a framework for an overall work plan, the mandate shall also establish a mechanism whereby any investigatory or audit work already performed by the various insurance companies in this area is reviewed to determine whether it is consistent with the standards and goals of the mandate and if so, shall be incorporated into the work plan of the IC auditors. The insurance companies and the insurance regulators that are parties to this MOU shall ensure that the respective auditing firms and other experts have complete and unfettered access to any and all of their relevant books, records and file archives as is necessary to their audit activities. Such access shall be in cooperation with and in accordance with the local insurance authorities and laws. Any documentation reviewed or received will be maintained as strictly confidential.
>
> b. As part of the audit mandate, the IC will address the issue of a full accounting

by the insurance companies and publication of the names of Holocaust victims who held unpaid insurance policies ...

The insurers for over 50 years denied claims and refused claimants access to the insurers books and records. They responded to these claimants only after a class action was brought and public hearings by the National Association of Insurance Commissioners (NAIC) revealed a pattern of bad claims practices that jeopardized these European insurers licenses in the United States and passage of state laws like California (which was found unconstitutional by the U.S. Supreme Court) and hearings in Congress. This was the impetus that led to the establishment of ICHEIC and the MOU. The insurer Generali has stated that it has good records of the Eastern European branch but virtually no records of subsidiaries. Most of the claimants cases referred to me as an arbitrator were from Eastern Europe. Generali had a fiduciary if not a contractual duty to preserve and/or copy its subsidiaries' records. Generali's denial of a claim because it does not have records is without merit. An arbitrator, should do as I did and reject such a self produced defense to a claim.

The insurers' books may be used to substantiate a claim. The insurers' reinsurance treaties in many cases may indicate the policies that were reinsured; in addition, actuaries prepare reserves based upon insurance in force and require breakdowns of coverage, age, and gender of the lives insured. Their books also indicate the earned and unearned premiums and the computation there of the cash surrender liabilities cause by lapsed policies. All of these entries could permit an auditor to determine whether the claimant was sold a policy and the status of the policy. No such approach was taken.

The ICHEIC's London office further pressured me to withdraw one of my proposed monetary awards and to deny the claim in order to save money for humanitarian awards. According to an April 26, 2006 E-mail from Megan Hoey, Principal Legal Advisor and Director of the Appeals Office at ICHEIC's London office who objected to my proposed award on that and other grounds . She explained that she dealt ...

"with such appeals on daily basis and many have been dismissed on the basis of similar evidence...with the greatest respect to you as a senior and experienced ICHEIC Arbitrator, our concern is that this case represents an unfair departure from the ICHEIC Guidelines and the

relaxed standards of proof and also the usual practice of the Tribunal , which disadvantages other Appellants and *deprives the future humanitarian fund of a large sum of money that would otherwise be allocated to survivors and their heirs who are in need." (Emphasis added)*

Ms. Hoey's Email of April 26, 2006 is attached as an exhibit to this brief.

This is an absurd proposition and attempts to favor one group of claimants at the expense of another. Each claim should stand on its own and the granting of a humanitarian award (a paltry sum compared to the actual value of a claim) was used so that it could declare not only a victory in claims in March 2007 but it could take credit for humanitarian motivations in providing "humanitarian relief."

Conclusion

In conclusion it was my observation that ICHEIC's claims process was flawed in that they permitted an employee on the legal staff, acting without authority and in contravention of published rules, to exercise a biased approach to the handling of claims. Justice and equity would be served if the court would reject the settlement and permit the plaintiffs to fully examine the defendants' books and records, and have the ICHEIC denials of claims be examined to determine if the decisions were made based upon an erroneous rule and to correct this gross inequity.

RESPECTFULLY SUBMITTED

ALBERT B. LEWIS
1025 Fifth Avenue
New York, New York 10028
(212) 909-2006

CERTIFICATE OF SERVICE
I CERTIFY THAT THIS REQUEST FOR LEAVE TO FILE AMICUS CURIAE SUBMISSION AND ATTACHMENTS WAS SERVED BY U.S. MAIL ON MARCO

SCHNABL ESQ.SKADDEN ,ARPS et al FOUR TIMES SQUARE , NEW YORK , N.Y. 10036; ROBERT A. SWIFT, ESQ. KOHN, SWIFT AND GRAF 1 SOUTH BROAD STREET 21 FLOOR PHILADELPHIA, PA 19107; AND SAMUEL J. DUBBIN, ESQ. DUBBIN & KRAVETZ, LLP 701 BRICKELL AVENUE, SUITE 1650 ,MIAMI, FLORIDA, THIS __ DAY OF SEPTEMBER 2007.

ALBERT B. LEWIS

EXHIBIT A

Lewis, Albert B.

From: Katrina Oakley [koakley@icheic.org.uk]
Sent: Tuesday, November 25, 2003 7:39 AM
To: Lewis, Albert B.
Subject: Appeals Tribunal matter no. 102

Thank you for your email.

On the facts of this appeal, I consider there is doubt regarding the value of the policy. [redacted]z completed the Claim Forms and wrote that the policy value was for US $5,000, but during the Appeals process the Appellant's wife wrote on the ASA: "I remember him [her husband Paul Kertesz] mentioning the amount, 20,000 Pengo was the insurance." The policy was issued between 1924-1925 in Hungary. Please note at Schedule 3 of the Valuation Guidelines the average life insurance policy for a Hungarian policy as at 1938 was 827 Pengos.

If an Arbitrator is persuaded that it is plausible that a policy was issued by the Respondent but is unsure of the policy amount, then the offer should be based upon Section 7.1 of the Valuation Guidelines (ie. a multiple of three times the average policy for the issuing country) and there is a cap of $6,000 per policy. If you agree, the Ready Recknor (RR) calculation is as follows;

Hungary: pengar

827	Base sum in local curency
0.1376	Disc't XR
$114	Dollar value
10	Multiplier
$1,140	Revaluation
5.87%	1999 yield
$1,205	1999 value
6.60%	2000 yield
$1,284	2000 value
5.40%	2001 yield
$1,354	2001 value
5.00%	2002 yield
$1,421	2002 value
4.75%	2003 yield
1	Offer month
1/4	Total months
$1,438.17	**2003 value**

I check the RR by hand because the RR is only a guide and is sometimes incorrect.

Step 1 & 2 of Schedule 2 (page 12 of the Valuation Guidelines) states that Pengo amounts are converted to US$. Therefore, US$0.1376 X the average Hungarian Pengo policy of 827 = US$113.79. This is multiplied by 11.286 = US$1,284.29 as at Year 2000. The following interest rates apply:

2001 $1,284.29 X 5.4% = interest of $69.35 = Amount of $1,353.64
2002 $1,353.64 X 5% = interest of $67.68 = Amount of $1,421.32
2003 $1,421.32 X 4.75% = interest of $67.51 = Amount of $1,488.83 + 2 months interest ($11.25) as per Step 3 = **$1,500.08**.

$1,500.08 X 3 (as it is 3 times the average value) = $4,500.24 as at 7th January 2004 (date of scheduled appeal).

For policies in US dollars the amount is calculated by the multipliers in Schedule 4 of the Valuation Guidelines. For example, the amount of $5,000 would be multiplied by 25.6 (1944 rate) and would total $128,000.00.

I look forward to hearing your comments.

Regards,
Katrina

-----Original Message-----
From: Lewis, Albert B. [mailto:ALewis@damato-lynch.com]
Sent: 20 November 2003 16:54
To: Katrina Oakley
Subject: [redacted], Kathleen

11/20/03
Dear Ms. Oakley

The [redacted] claim alleges a policy in the face amount of $5000.00 . I do not find any clear drection in the valuation guidelines as to a policy paying an amount in U.S. dollars. Are there conversion or other factors that should be used in evaluating the claim? In the proposed decision I evaluated the award at $5,000 and computed interst. Is this correct?

AL LEWIS

EXHIBIT B

Lewis, Albert B.

From: Lewis, Albert B.
Sent: Tuesday, November 25, 2003 5:21 PM
To: 'koakley@icheic.org.uk'
Subject: Kertesz appeal 102

Dear Ms OAKLEY:

Thank you for your E mail of 11/25/03 on the above matter.

Page 61 of your file,Paragraph 5-page 4 of the claim dated 6/15/2000 states that the claim is for "Life Insurance" and indicates the

amount to be $5,000.00. The wife of the climant in her appeals submission dated July 10 2003 states that she remembers her

husband mentioning a sum of 20,000 pengos was the insurance. She does not state that this sum was for life insurance. In addition

she was not present in the home of the Kurtesz's since she met Paul Kertesz after the war.

I am inclined to give credence to the son of the policyholder's direct statement rather than the recollection of a conversation between

the son of the policyholder and his wife after the war and made in July 10, 2003

I, therefore, willl find a life insurance policy was in existence in the sum of $5,000 and that in 1944 the event that triggered a payment

was the death of the policyholder. The valuation requirements for the arbitrator is contained in Annex D of the Manual which states that

the arbitrator must assign a base value to the policy.which is the value it would have had at the date of death, 1944. This is the sum of

$5,000.00 . According to the valuation guide Paragraph 6 *Determining Current Values* sub paragrpah 6.2 *Eastern European Countries*

" The current value is determined in accordance with the steps outlined in Schedule 2 For policies issued in dollars and not converted into local currency, the base value remains in dollars."

In paragraph 7 *Other Issues* sub paragrph 7.3 *Policies denominated in currencies other than the country of issue:*

" ...For policies issued in Eastern Europe and not conberted, the procedures in Schedule 2 from Step 2(for East Eoropean

claims)should be followed.

Schedule 2 Step 2: Multiply the dollar value by 11.286. This gives a value up to the end of the year 2000.

Thus $5000.00 x 11.286 = $56,430.00

This amount pursuant to step 3 is increased by interest of 5.4% for the full year of 2000 =$3047 and by interest from 1/1/2002 to

12/31/02 of 5.4% on $59,477.00=3211and 5.4% of $62,688.00 for the period 1/1/2003 =$3,385 and 5.4% on $66,073 plus 5.4% from

1/1/04 to 1/7/04=$69.30 or a total award of $66,142.00.

If I were to adopt the 20,000 pengors of the widow of the claimant's son the amount that would be due based upon the valuation guidelines would be as follows:

20,000x coversion factor schedule 2 is $0.1376 = 2752

Step 2 2752x11.286= $31,059 value at 12/31/00

interest at 5.4% for 2001of $31059=	$1677.19
interest at 5.4%for 2002 of $32,736=	$1767.76
interest at 5.4%for 2003 of $34,503=	$1767.76
interest at 5.4%for 7 dfays 36,3676=	$ 38.19
	$5,346.
	$36,405

I will not find that the widow's remembrances as stated of hearsay in her statemnt dated July 10, 2003 has greater validity than the

claim of her husband dated June 12, 2000.

I can not adopt your computations since it is based on the premise that the amount of the policy was unknown. The limit of $6000.00

only aplies if the sum of the policy is unknown..

Therefore, I am prepared to issue my award in the sum of $66,142.00 . Please feel free to indicate if I have erred in my

evaluations.interest at 5.4%for 2002 of $32,736= $1767.76

Al Lewis

EXHIBIT C

appeal 102 Kert...

Lewis, Albert B.

From: Katrina Oakley [koakley@icheic.org.uk]
Sent: Wednesday, November 26, 2003 9:45 AM
To: Albert B. Lewis (E-mail)
Subject: Appeals Tribunal matter #102 [redacted]

Dear Mr Lewis,

Thank you for your email yesterday. I have read your comments and re-analysed the file and I suggest that we have a telephone conference at a time convenient for you. It seems to me that your interpretation of the Relaxed Standards of Proof is different to the other Arbitrators. Differences are to be expected given the ICHEIC's desire to ensure each Arbitrator is independent and impartial. However, in my role I see decisions across a wide variety of differing cases from Arbitrators and am concerned that your interpretation is sufficiently different that it would set a precarious precedent.

You are relying upon the Claim Forms as evidence of a policy and the amount of that policy. If this was correct the Appeals Tribunal would be paying every Appellant for every appeal submitted to the process. The Appeals Tribunal, since its inception, has published 50 Awards. I presently deal with 120 live appeals and liaise with 14 Arbitrators. The Awards for [redacted] and [redacted] that you have sent to me, if published, will set precedents that will have wide ramifications for the Tribunal; the ICHEIC and insurance companies. This email will deal specifically with the [redacted] appeal. I will email you separately regarding the [redacted] appeal.
I would have dismissed the [redacted] appeal based upon the following reasons:

1) An Arbitrator must decide whether the Appellant has shown based upon the Relaxed Standards of Proof it is plausible that (i) an insurance policy was issued by a Member Company (s. 23(2) of the Rules) and (ii) that the Appellant is entitled to the proceeds of the policy (s.23(3)). I do not consider the Appellant has shown it was plausible that a policy was issued by Fonciere (now RAS) because:

(a) The Appellant has submitted 2 Claim Forms with identical information and yet named 3 insurance companies: "Phoenix", "Generally Insurance Company" and "Fonciere". I do not consider the Appellant to be particular regarding the Member Company. There is no supporting statements or documentary evidence to support that Fonciere was the insurer.

(b) The Appellant has marked 3 types of insurance policies at 5.1: Life Insurance; Fire and Burglary. He writes the insurance policy was for US $5,000. Again, the Appellant falls to be particular because is $5,000 US for all the policies or for each and every policy? It is not known. We cannot assume that it was for the Life Insurance policy. If the Appellant was alive we could request further information pursuant to Article 19. We cannot in this appeal because the Appellant is dead.

(c) The Appellant states that the insurance premium was paid monthly in Hungary but does not furnish further information. If he were alive we could ask for further clarification, such as whether it was a Fonciere policy. Again, I do not consider there is particularity in this appeal to support that Fonciere was the insurer.
2) This appeal is where there is no documentary evidence for both parties. The Appellant has a heavy burden of proof to establish that Fonciere issued a policy to his father. Award precedents have used the following text that was drafted by the Vice President of the Tribunal, Sir Anthony Evans in Appeal #6 [redacted]:

"When no written record of a policy is produced by the Claimant and the Company which is stated to have issued it can find no record of its existence, the burden of proving that a policy was issued is a heavy one for the Claimant, even though the burden is limited to establishing that it is *"plausible"* rather than *"probable"* that the assertion is correct. Whether or not the burden is discharged in such a case will depend primarily upon the nature and persuasiveness of the Appellant's evidence: does her recollection have the necessary qualities of particularity and authenticity to overcome the absence of any documentary record?"

3) Unfortunately, previous Awards do not support your Award. I attach 3 precedent examples that have

Fonciere was the insurer.
2) This appeal is where there is no documentary evidence for both parties. The Appellant has a heavy burden of proof to establish that Fonciere issued a policy to his father. Award precedents have used the following text that was drafted by the Vice President of the Tribunal, Sir Anthony Evans in Appeal #6 Gaber:

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3) Unfortunately, previous Awards do not support your Award. I attach 3 precedent examples that have been decided by different Arbitrators. Perhaps we can analyse these Awards together when we speak.

I should be grateful if you could let me know your available times so that I can call you to discuss the above. Thank you.

Kind regards,
Katrina

Katrina J Oakley
Legal Adviser, The Appeals Office
The International Commission on Holocaust Era Insurance Claims (ICHEIC)
1 Waterhouse Square
138-142 Holborn Bars
London, EC1N 2ST
Telephone ++44 (0) 207 269 7311
Fax ++44 (0) 207 269 7303

-----Original Message-----
From: Lewis, Albert B. [mailto:ALewis@damato-lynch.com]
Sent: 25 November 2003 22:38
To: Katrina Oakley
Subject: appeal 102 Kertesz corrected and resent

Dear Ms OAKLEY:

Thank you for your E mail of 11/25/03 on the above matter.

Page 61 of your file,Paragraph 5-page 4 of the claim dated 6/15/2000 states that the claim is for "Life Insurance" and indicates the

amount to be $5,000.00. The wife of the climant in her appeals submission dated July 10 2003 states that she remembers her

husband mentioning a sum of 20,000 pengos was the insurance. She does not state that this

sum was for life insurance. In addition

she was not present in the home of the K[redacted]'s since she met Paul K[redacted] after the war.

I am inclined to give credence to the son of the policyholder's direct statement rather than the recollection of a conversation between

the son of the policyholder and his wife after the war and made in July 10, 2003

I, therefore, will find a life insurance policy was in existence in the sum of $5.000 and that in 1944 the event that triggered a payment

was the death of the policyholder. The valuation requirements for the arbitrator is contained in Annex D of the Manual which states that

the arbitrator must assign a base value to the policy.which is the value it would have had at the date of death, 1944. This is the sum of

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" The current value is determined in accordance with the steps outlined in Schedule 2 For policies issued in dollars and not converted into local currency, the base value remains in dollars."

In paragraph 7 *Other Issues* sub paragrph 7.3 *Policies denominated in currencies other than the country of issue:*

" ...For policies issued in Eastern Europe and not conberted, the procedures in Schedule 2 from Step 2(for East Eoropean

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Schedule 2 Step 2: Multiply the dollar value by 11.286. This gives a value up to the end of the year 2000.

Thus $5000.00 x 11.286 = $56,430.00

This amount pursuant to step 3 is increased by interest of 5.4% for the full year of 2000 =$3047 and by interest from 1/1/2002 to

12/31/02 of 5.4% on $59,477.00=3211and 5.4% of $62,688.00 for the period 1/1/2003 =$3,385 and 5.4% on $66,073 plus 5.4% from

1/1/04 to 1/7/04=$69.30 or a total award of $66,142.00.

If I were to adopt the 20,000 pengors of the widow of the claimant's son the amount that would be due based upon the valuation guidelines would be as follows:

20,000x coversion factor schedule 2 is $0.1376 = 2752
Step 2 2752x11.286= $31,059 value at 12/31/00
interest at 5.4% for 2001of $31059= $1677.19

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interest at 5.4%for 2003 of $34,503= $1767.76
interest at 5.4%for 7 dfays 36,3676= $ 38.19
$5,346.
$36,405

I will not find that the widow's remembrances as stated of hearsay in her statemnt dated July 10, 2003 has greater validity than the

claim of her husband dated June 12, 2000.

I can not adopt your computations since it is based on the premise that the amount of the policy was unknown. The limit of $6000.00

only aplies if the sum of the policy is unknown..

Therefore, I am prepared to issue my award in the sum of $66,142.00 . Please feel free to indicate if I have erred in my

evaluations.interest at 5.4%for 2002 of $32,736= $1767.76

Al Lewis

EXHIBIT D

Answer to E-Mail of 11/26

To:

December 10, 2003

Ms Katrina Oakley {koakleyicheic.org.uk}
From:
Albert B. Lewis

Re: your E-Mail of 11/26/03 Kertesz Claim 36815

Dear Ms. Oakley:

I have your E-Mail of 11/26/03.
I approached my responsibilities as an arbitrator in the claim of Kertesz as I will in all of the cases placed before me using the following guidelines :
ICHEIC APPEALS PROCESS C-4
Standards of Proof (Page 21 of the ICHEIC Briefing Manual):

a) Relaxed Standards of Proof

Article 22: Admissibility

"22.1 Arbitrators shall admit all evidence … available and shall afford any such evidence the appropriate weight, bearing in mind the circumstances of each case, the difficulties of tracing the documents and information and of proving or disproving the validity of a claim after the destruction caused by the Second World War And the Holocaust and the long time that has elapsed since the insurance policies were issued and the ordinary course of documentation retention policies followed by the Member Company"

b) Article 23 Burdens of Proof:

"23.1 Arbitrator shall weigh the evidence applying Relaxed Standards of Proof adopted by the ICHEIC.

23.2 To succeed in an Appeal the Claimant must establish that, based upon the Relaxed Standards of Proof, that it is plausible:

i) that the insurance policy was issued by a Member company; and

ii) 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 to pursuant the Succession Guidelines."

c) Relaxed Standards of Proof in Article 23.1 is defined in Article 35.18 as follows:

"**Relaxed Standards of Proof:** means the Standards of Proof presented at the March 1999 ICHEIC meeting and adopted by the Chairman in his Decision Memorandum of July 2, 1999 and amplified by memorandum of July 16, 1999."

d) **Article 23 Burdens of Proof Page 22 and 23 of the Manual**:

"4. It may become necessary for Arbitrators to consider the precise

claimants. When these claimants were being arrested and transported in cattle cars or trucks did these arbitrators believe that the claimants had either the opportunity or the motivation to obtain documentation of their insurance policies? The claimants were not about to search for policy records at the time that they were arrested and taken from their homes. At the most, they were only trying to survive. Most of them were unsuccessful and of the few that survived many were left far away from their homes and/ or were unable to return. Some others were forced to flee their homes and native country to escape from the excesses of the communists and the residual anti- Semitism of their neighbors and countrymen. Should they as displaced persons have paused to seek a copy of their policy? And if so where should they have sought these policies ? Amid the rubble that was their home or in the rubble of the city where the rubble of the insurer's offices existed?

The policyholders having entrusted their premiums to the life insurers reasonably would expect that their trusted the life insurer would maintain their records and be available to pay their claims or at the very least substantiate their policies'existence.

Should not these arbitrators have considered that the unavailability of these records only serves the insurer especially in the case of Holocaust claimants when as almost all Holocaust claimants are unable to provide documentary evidence that their policies existed.

This is a factor that should not be "swept under the rug' and thereby easily dispose of a claim. It is a factor that must be considered as a "special circumstances "in the standard of proof. These are the facts that Article 24.1 authorizes the Arbitrator to consider in his determination of the appeal and in accordance with the principles of equity and justice.

A cruel hoax has been perpetrated upon claimants Gabor and Kaaron by these decisions. These holocaust victims have faced the unspeakable cruelty of incarceration in concentration camps. They then are given hope by ICHEIC and are requested to file a claim. After waiting five or more years they then have their claim refused because they did not have a copy of the policy or other documentation of their policy and the insurer's records were not available to corroborate the existence of the policy. Unfortunately this is another demeaning treatment in a litany of similar treatment received by Holocaust victims from their incarceration to date.
Judge Gafni's decision dismissing the appeal is different from the other appeals. In that claim, the policy was issued by an insurer that preserved its records. The fact that the insurer's records did not substantiate that a policy was issued substantially rebuts the claimant's allegation as to a policy without documentary evidence of its issuance This is the difference between a claims against a Hungarian company and one of the insurers that have preserved their records.

I asked you for your comments on my proposed decisions .These are my comments to your E mail of 11/26/03:

My responsibility as an arbitrator is to follow the rules and determine my decision accordingly and it should not be controlled or prejudiced by the decisions of other

arbitrators nor what you may have decided were you the arbitrator. Moreover, if I were to embrace your requirements of proof then almost all of the Hungarian policyholders' claims should be dismissed. It would make the ICHEIC's rules a charade when claimants who after having survived the most horrific event in recorded history are denied their claims because they could not obtain records to support their claim when the very reason for their inability is the fact they were victims of the Holocaust. The rules , however , do not support your logic in urging my dismissal of the Kertesz and Keller cases.

I am surprised by the lack of objectivity in your E-Mail and its disregard of the very rules that have been adopted.
In your paragraph 1(a) ,you refer to the Relaxed Standards of Proof and 23.2 of the Rules You do not refer to Article 22 *Admissibility* "22.1 Arbitrators shall admit all evidence ... available and shall afford any such evidence the appropriate weight, bearing in mind the circumstances of each case, the difficulties of tracing the documents and information and of proving or disproving the validity of a claim after the destruction caused by the Second World War and the Holocaust and the long time that has elapsed since the insurance policies were issued ..."You also fail to cite The Relaxed Standards of Proof stated in page 21 C-4 of the Manual: "satisfaction of the evidentiary requirement shall be determined in accordance with ICHEIC relaxed standards of proof, which are to be interpreted liberally in favour of the Claimant. (emphasis added)

You also are confused by the term plausible and improperly equate it to evidentiary proof. The plausibility test is was the alleged policy a product that the claimant would purchase. Life insurance is a plausible purchase when a person has dependents that are economically dependent on the person whose life is being insured and who seeks to indemnify these dependents from the economic consequence of his death.

I disagree with your characterization that the claimant was not particular regarding the Member Company. He identified Fonciere as the insurer on a life policy in the sum of $5,000.00. The claimant's form could also be used to determine if there are other insurance policies that are recorded in the name of the claimant that the claimant was unsure of.. In the case of the Hungarian insureds, the claimant were mislead to believe that there were records of Hungarian insurers that would substantiate and/or reveal other insurers.. This was probably the motivation for the claimant listing these additional insurers in a subsequent supplementary claim form.

I accept Kertesz's first claim in which he unequivocally names the insurance to be Life Insurance and answers the question of other insurance as burglary and fire.

In your paragraph 1(b) You make a statement that distorts the facts. In answer to the form Paragraph 5.1, the claimant was asked to state the "Type of Insurance policy" and he checked the box next to Life Insurance. The Paragraph went on to ask for "Other Please specify". He answered "burglary fire".(This did not change his statement that the type of insurance was life.)
His other answers were in response to the question asked.
Paragraph 5.3 entitled "Currency" and he answered "U.S. dollars"

Paragraph 5.4 Sum Insured and he answered "$5,000.00"

The responses to these questions are answered only concerning the life insurance policy. You seem to attack the clarity of ICHEIC's claim form. If, ICHEIC were looking for further answers for the life insurance policy as well as "other" insurance then it should have specifically requested such answers. I do not believe that the purpose of the question was to obtain answers to other insurances issued too the claimant's father. The facts and circumstances in reference to burglary and fire policies were irrelevant to the claim for life insurance You now use your convoluted interpretation of the claim form to attack this deceased claimant's veracity and to conjure up additional questions that were he alive he could answer. Hs death , like the disappearance of the records are being used against the claimant. I finds no question to be answered by this deceased claimant.

The claimant is clearly claiming on a life insurance policy in the face amount of $5,000. No further information from the claimant is necessary. The claim form speaks for itself. I would not use Article 19 since it is clear that the claimant had no other evidence and could not produce other evidence.

In your E-Mail Paragraph 1 (c) You allege that the "claimant states that the insurance policy was paid monthly in Hungary but does not furnish further information.". Where in the claim form Paragraph 5.8 are there other questions to be answered or further information requested.? You go onto to state that if the claimant was alive we could ask for further clarification What further clarification do you seek and if so why wasn't contained in the questions of the claim form? The claimant states in Paragraph 3.1 Name of the Company ? answer " Fonciere". I disagree with your gratuitous statement that you" do not consider there is particularity in this appeal to support that Fonciere was the insurer." This is a matter for the arbitrator to determine.

Paragraph 2 is a distortion of the rules of the Tribunal. Where is their a rule that conforms to your statement that "where there is no documentary evidence for both parties.The Appellant has a **heavy burden of proof** to establish that Fonciere issued the policy to his father. No such rule exists and the fact that Sir Evans articulated it in his decision in Appeal # 5 does not make it a rule to be followed by all arbitrators. There is no indication that the Vice President has this authority and he may have exceeded his authority in adopting this rule in the Gabor case.

The first form submitted by the claimant dated June 15,2000, Page 15 he states in paragraph 3.1 that the insurance was issued by Foncaire and on Page 16 that it was for a $5,000 life insurance policy. In the second claim form he added two other insurers Pheonix and Generally I chose not to consider this to be three policies with three insurers and I did not consider this second form to negate the claim in the first form. Claimants were advised that the records of insurer will be searched to find possible policy. This is sufficient motivation to refer to other insurers with the hope that his father may have had other policies that were unknown to the son.

The claimant unequivocally indicated in Paragraph 5.1, that the type of policy was life insurance and that he listed burglary, fire in answer to the question as to "*any other*" There is no confusion .

Although there was no documentary evidence, in this claim, the memorandum of July 2, 1999 states "whatever evidence the Claimant can offer and even if there is none" then the satisfaction of the evidentiary requirement shall be determined in accordance with ICHEIC relaxed standards of proof, which are to be interpreted liberally in favour of the Claimant.

I question your objectivity in **not** submitting Sir Anthony Evans decision in Appeal # 3 .I came across it a loose leaf book entitled "REPORTS OF THE PRESIDENT OF THE APPEALS TRIBUNAL TO THE CHAIRMAN AND VICE CHAIRMANOF THE COMMISION that was sent to me. In this opinion of Sir Evans, he made an award even though the claim did not have any documentary evidence His opinion states that based upon the relaxed standards of proof and the difficulties of tracing the documents and information after the long time elapsed since the Second World War and the Holocaust, apply to Company Respondent as well as to individual Appellants.
In this claim the Insurer found no evidence of the issuance of the policy although it admitted that 60% of the issued policies were recorded and that test runs indicate 93.5% of the policies could be accounted . In addition the insurer stated "in 1938 all people of Jewish origin were "requested by government order" to declare their assets. Its limited review of archive data bases in the Berlin Archives " does not provide any hint of a policy having been issued to"
Sir Anthony Evans goes on to state "Unless the relevant records are 100% complete , or the statistical evidence is 100% certain , there must by definition be some where an uncontradicted personal recollection can be accepted as accurate , provided that it has the hallmarks of what I have described as particularity and authenticity in the circumstances of the case . In my judgment, the present is such a case."

This decision is the complete opposite of Sir Evans' decision sent to me
Did you send similar letters to other arbitrators who were proposing awards in cases such as Claim 3 or the Kertesz claim and were able to change the arbitrators decision ? If so you should correct the distortions and omissions and have the arbitrator reconsider his changed opinion.

I do not believe a telephone call will be productive .

AL LEWIS

EXHIBIT E

By E-Mail 6/15/04

Dear Ms. Oakley:

When I agreed to act as an arbitrator, I did so with the purpose of adjudicating appeals and to expedite the awards to claimants. I did not expect to nor did I look for any confrontation with ICHEIC 's staff. My motivation as an arbitrator was to fulfill my duties fairly and expeditiously within the prescribed rules. Since claimants were all in their seventies and eighties were waiting over 59 years for compensation, therefore, the expediting of the awards was a primary goal. An award **unnecessarily** delayed and arriving after the claimant is deceased is an unjust result and further punishes a claimant. *Justice delayed is justice denied.*

In the Weber Appeal #233, on 5/5/04 I E-mailed a draft of an award which gives the maximum award permitted by the rules to a claimant that does not know the face amount of the policy. The award is capped at $6,000.00 and earns no intetest in the interim. Ms. Weber had requested on 5/20/04 an oral hearing. On 5/25/04, I denied her request since it would not and could not benefit the claimant and it will unnecessarily delay the payment of the award On 5/25/04 you objected to my denial of her request and refused to finalize my award. I have practiced law for 50 years. I have been a Secretary to New York Supreme Court Justice for four years, a State Senator for twelve years and the Superintendent of Insurance for five years. On that basis I find that the wording of the rules do not give the claimant an absolute right to an oral hearing and leaves it to the arbitrator's discretion.

You have referred my denial to Professor Gafni and refused to prepare and publish the award until after the oral hearing. To hold that hearing would entail the agreement of all parties and the arbitrator to a date for the hearing and will delay an award for several months. It would not lead to an eventual award in any greater amount. Your conduct in refusing my ruling as an arbitrator only injures the claimant Weber and grants more time for the respondent's to hold her $6,000.00 award and pay no interest.

I am facing a similar situation in the Kohn claim in which the claimant has requested, and I have agreed to an oral hearing; however, in the interim I have received affidavits that are sufficient to grant the claimant a maximum award. I have prepared a notice to you rescinding my decision to hold an oral hearing and send the claimant my award. This will expedite the award.

The object of ICHEIC and your responsibility as well as mine is to give expeditious justice and equity to the claimants and not initiate or interpret rules that only have the effect of delaying the payment to the claimants. Even when the award is a denial of the claim the claimant should not be kept in limbo for more than the 40 years they have already waited.

I considered your E-Mail to me of November 26, 2003 as a blatant attempt to pressure me as an arbitrator to reverse three proposed monetary awards to claimants. It was a

flagrant violation of the rules and it denied the claimants due process It was an ex parte action to which the claimant had no knowledge, let alone an opportunity to be heard in opposition to your presentation.

On November 26, 2003, to have me change my awards, you sent me copies of three awards of arbitrators that dismissed claims and expressed reasons for dismissal that were contrary to the reasons I expressed in making monetary awards. In the awards that you sent me was an award of Sir Anthony Evans that denied an award and contained a characterization of a rule that where there is no written proof of the existence of the policy then the burden on the claimant is a "heavy one." There is no such rule in the compilation of ICHEIC rules on burden of proof. In perusing a loose leaf book containing samples of awards that was sent to me when I was appointed as an arbitrator, I came across a monetary award by Sir Anthony Evans where there was no written evidence of a policy and he accepted anecdotal evidence to grant an award. I had accepted such evidence in granting my three monetary awards. Why was not this award by Evans sent to me? Were any other arbitrators similarly pressured by you and changed their awards?

Giving you the benefit of the doubt that you made a mistake with good intentions, and given your dedication to the **written Rules**, how do you explain permitting and approving the inclusion in the texts of arbitration awards the following unwritten an egregious rule defining burden of proof :

> "When no written record of a policy is produced by the Claimant and the Company which is stated to have issued it can find no record of its existence, the burden of proving that a policy was issued is a heavy one for the Claimant... "

You even quoted this "rule" to me in your E-mail to me of November 26,2003 to urge that I reverse my proposed monetary awards.

In Kertesz, Appeal # 102, I sent my proposed award to you in the sum of $66,142.00. You sent me an E-mail dated 1/16/04 that stated:

" I have re-drafted it to a First Award because I consider a Valuation Expert should be instructed pursuant to Article 26.2 of the Rules.... I consider expert advice is necessary because in **1936 the Hungarian government passed a law to compulsorily convert foreign policies into Pengos. You will recall that the Appellant's policy was issued in Hungary for $5,000.00 and would, therefore, be converted.** If you agree please fax me the award signed and dated." (Emphasis added)

Relying on your statement as to the impact of Hungarian 1936 legislation ,I signed a First Draft .Thereafter, I received a letter dated 2/3/04 from the Respondent, RAS which stated that the Hungarian Law 4050/1936 required that the $5,000.00 policy award be converted into Pengos and that the award should be computed to pay the sum of $45,815.62

I then requested a copy and translation of the Hungarian law 4050/1936.

On March 18, 2004, I received an E mail from you which stated:

"By way of background, most East European countries passed laws in the 1930s that required conversion of dollar insurance policies into local currencies. For example Czechoslovakia had laws passed in 1924 and 1939, in 1934, Romania in 1937 Yugoslavia in 1938....
In this appeal, the policyholder purchased the $5,000 policy "cca 1924-1925" therefore the 1935 law would have converted this policy into Pengo(at a rate of 5.09 pengo=1USD) because the insured event was the date of death , being 1944.. I have found , however ,that the Respondents computations in their letter of 2/3/04 for the policy totaling $46,580.74 is incorrect."

You then go on to recompute the award to read $46,771.89.

When I received the translations of Hungarian Law 4050/1936, I found that contrary to your or RAS's representations the Hungarian 4050/1936 does not mandate a conversion why then did you state that the law mandates conversion? What reasonable diligence did you exercise in making such a finding? Did you read the law? How many other arbitration awards on Hungarian policies that paid in dollars relied on your interpretation of this law and were flawed? The difference in the Kertesz was the sum of $68,040.12 that I awarded and the $46,771.89 that you indicated was to be awarded.

In the Weber matter you zealously acted to have me blindly conform to what you erroneously thought are the rules.

I have read the rules. Article 10.1 states:
Subject to Article 10.2 and 10.3 below Arbitrator appointed pursuant to these Rules shall have jurisdiction over all issues raised in or by an Appeal.
The provisions of 10.2 and 10.3 which states that the Arbitrator shall have no jurisdiction over 5 areas none of which restricts the arbitrator in deciding matters of procedures.
Rule 11.2 Subject to the express provisions of these Rules , the procedural matters in each arbitration shall be determined by the Sole Arbitrator...

Rule 11.3 states:
"Arbitration shall be conducted on a document only basis unless an oral hearing is requested by the Claimant or the Company or ordered by the Arbitrator. In the case of the oral hearing being necessary, the sole Arbitrator ....may order that such a hearing be conducted by recorded telephone...." (Emphasis added)

The arbitrator is not mandated to hold an oral hearing but may order such hearing if the Arbitrator considers that the oral hearing is necessary. Clearly there is no necessity for an oral hearing in Ms. Weber's appeal she is getting the maximum that the rules permit.

Where in the rules do you have the authorization to overrule an arbitrator ? Your unauthorized conduct is delaying Ms. Weber's award during which she is receiving no

interest and it is an affront to those that drew the Rules and those of us who have agreed to act as arbitrators

Very truly yours,

Albert B. Lewis

Cc Professor Gafni

EXHIBIT F

Lewis, Albert B.

From: Megan Hoey [mhoey@icheic.org.uk]
Sent: Wednesday, April 26, 2006 10:05
To: Lewis, Albert B.
Cc: Mali Smith
Subject: Appeal Reiss 8090

Dear Mr Lewis,

As Principal Legal Advisor and Director of the Appeals Office, I regularly review the appeals decisions that are to be published. I have to agree strongly with Ms Smith's advice to you in this appeal. We deal with such appeals on daily basis and many have been dismissed on the basis of similar evidence.

This Appellant could be awarded a humanitarian award (ie, you accept that the family had life insurance but there is not enough evidence to hold Generali responsible) or, at a stretch, an average value of $6000. This appellant merely '*assumes*' that it is Generali- that has never been enough to hold a company contractually responsible for a policy in the Appeals Tribunal.

This Appellant refused to answer your request for further information dated 8th of March, and when Ms Smith telephoned the appellant on 7th April to give the Appellant yet another opportunity to respond, the husband gave the response set out in the email Ms Smith sent you you dated 7th April, which I attach for your reference.

This money does not stay with the insurance company Generali, so if you do not award it to the Appellant, it goes to other people who have suffered during the Holocaust and who are in need.

With the greatest respect to you as a senior and experience ICHEIC Arbitrator, our concern is that this case represents an unfair departure from the ICHEIC Guidelines and the Relaxed Standard of Proof, and also the usual practice of the Tribunal, which disadvantages other Appellants and deprives the future humanitarian fund of a large sum of money that would otherwise be allocate to survivors and their heirs who are in need.

Megan