

## **Holocaust Insurance Claims: Getting Justice 50 Years Later**

**Mor Stern was a successful businessman in the 1920's in the town of Uzshghorod, Hungary, which is today part of the Czech Republic.**

With his wife, Regina, the Sterns had seven children: Adolf, Rudy, Herman, Aron, Bart, Edith, and David. Because of his extensive wealth, Mor entered into substantial life insurance and annuity contracts with an insurance company named Assicurazioni Generali from 1929 to 1939, in order to guarantee the financial well being of his family, and to assure the continuity of their way of life in the event of his untimely demise.

Following the 1938 Munich Agreement between Adolf Hitler and Neville Chamberlain, Mor realized that the situation was becoming precarious for Jews living in Europe at the time. Therefore, Mor sent his eldest son, Adolf, who was only 22 years old at the time, to Prague, Czechoslovakia to collect money that was due from various customers. Mor told Adolf not to return home with the money he had collected, but rather, to deposit them in the Czech branch office of Generali. Adolf did as his father instructed, and the additional money was sufficient to pay for the subsequent five years of premiums (i.e. 1939 through 1944).

What happened next is now a tragic part of Jewish history. In June 1944, the 50% Jewish population of Uzshghorod, including the Sterns, suffered the same fate of virtually the entire Hungarian Jewish community, and were deported to Auschwitz. At the death camp, Mor, Regina, Herman, Aron, David, and Adolf's wife and infant child, were murdered by the Nazi's. Following the Holocaust, Adolf, Rudy, Bart, and Edith, were the only surviving Stern family members.

Upon liberation, Adolf returned to the Generali office in 1945. With most of his family dead, and nothing for him or his surviving brothers and sister to live on, Adolf realized that the insurance policies his father had were the only means that he and his siblings had left. Adolf presented a claim to Generali, requesting that his family be paid the policy benefits due and owing.

The Generali officials were cruelly indifferent, telling Adolf that he and his remaining family would get nothing. They demanded a death certificate and copies of the policies. Adolf responded that he and his family were taken to the concentration camp and that he did not have copies of the policies and there was no death certificate. As a further insult, the officials at Generali had Adolf physically thrown out onto the street, refusing to discuss the matter further.

Later, in August 1945, Rudy Stern approached Generali through the Czechoslovakian Embassy in London to make a claim on the policies. The urgency in obtaining the insurance proceeds from Generali at that time was based on the fact that Rudy's brother, Bart, had to undergo an urgent lung operation due to the serious tuberculosis he had contracted while at Auschwitz. Rudy wanted to ensure that his brother received proper care, which was going to cost a substantial sum of money.

Rudy was informed by Generali that his claim was futile because he did not have a death certificate for his father and Generali would refuse to open their records to look for the various policies. Rudy again responded that a death certificate did not exist inasmuch as his father was murdered in Auschwitz. However, as it did with Adolf, Generali also denied Rudy's claim on the various policies. Ultimately, Bart received his medically necessary surgery, removing a portion of his lung, in September 1945 in Satmare, Romania. This was funded by The Joint Distribution Committee in the United States.

After recuperating from his surgery, in 1946, Bart, like his brothers Adolf and Rudy did before him, made a claim under the policies at the Generali branch office in Brun, Czechoslovakia. Unable to produce a non-existent death certificate for his father, Bart received a similar greeting from Generali as did Adolf and Rudy a year earlier.

In December 1947, Rudy and his wife Celia traveled to Prague from London to attempt, yet again, to make a claim at the Generali office. Generali refused to even grant Celia and Rudy an appointment. The Generali officials told them that they had wasted their time traveling from London to Prague, as all records were coordinated in Trieste, Italy.

On August 19, 1972, Edith Stern submitted a written claim to Generali, marking the fifth substantiated attempt by the Stern family to obtain the policy proceeds to which they were entitled. On August 31, 1972, Generali responded to Edith's claim stating that, after searching its files, there were no documents that existed to substantiate that a policy existed insuring the life of Mor Stern.

While attending the memorial upon the passing of Bart Stern in Jerusalem in September 1996, Rudy Stern's son, Martin Stern, overheard Adolf and Edith discussing the indignities that they had experienced at the hands of Generali. Horrified by the accounts, Martin recalled reading that the same Generali was attempting to purchase one of Israel's largest insurance companies, Migdal. The mere thought of Generali funding the purchase of an insurance company in Israel partially with funds that should have been paid to Generali beneficiaries who were victims of the Holocaust renewed the Stern family's quest to obtain their rightfully owed benefits under the policies.

On September 18, 1996, Martin wrote a letter to the parent company of Migdal Insurance, Bank Leumi. In his letter, Martin recounted the horrendous treatment Generali extended to his family in their attempts to obtain the policy benefits they were owed. Martin went on to state that in light of the negotiations that were ongoing between Generali and Migdal Insurance this would be the opportune time to find out how the bank could encourage Generali to honor the Stern claims.

On October 11, 1996, Generali issued a press release responding to the questions raised by Martin. In the release, Generali claimed that as of October 1945, the entire insurance business of Generali in Czechoslovakia was nationalized by Government Decree, and that it therefore had no responsibility for the payment of the Stern policies. In addition, Generali again affirmed that it found no records of ever issuing a policy to Mor Stern, and stated the following about the Sterns and their claim:

"it is indeed regrettable that the complainants [the Sterns] resorted to an innuendo implying prejudice and greed by Assicurazioni Generali"

In response to the press release, the Sterns again recounted the efforts Adolf and Rudy made to obtain the policy benefits before the alleged nationalization in October 1945. On December 9, 1996, Generali responded by reemphasizing that its assets were nationalized in October 1945, but admitted, that it had, in fact, received the equivalent of \$8,453,497, from the Czech Republic as indemnity for the value of its insurance business in Czechoslovakia that was nationalized in October 1945. Generali again denied the Stern family's claim stating that it had had no legal or moral obligation to honor the unpaid claims.

On December 10, 1996, a breakthrough occurred. Contrary to Generali's prior assertions that no documents existed evidencing that a policy was even issued covering the life of Mor Stern, a Generali clerk faxed Martin Stern a copy of one of the annuity policies issued in 1929. Despite the fact that the Stern's now had evidence of a policy, Generali repeated its position that it was not under any legal or moral obligation to honor the

claim.

The Sterns filed an insurance bad faith case against Generali in Los Angeles Superior Court in February, 1998, seeking both compensatory and punitive damages for Generali's failure to honor their claims. Since the filing of the lawsuit, there have been two more policies that have been uncovered, for a total of three policies issued to the Sterns by Generali.

In response to the litigation, Generali brought a motion to dismiss the case, claiming, among other things, that California Courts do not have jurisdiction over Generali. In support of its motion, Generali filed a declaration of one of its home office executives, Federico Baroglio. Mr. Baroglio's declaration, stated, under the penalty of perjury, among other things, the following:

"28. Generali cannot locate any records of ever having filed a lawsuit in the California state courts."

At the time of the oral argument on Generali's motion the Stern's attorneys had completed a preliminary investigation into Generali's litigation activities in California. In stark contradiction to Mr. Baroglio's assertion under oath on behalf of Generali, that investigation unveiled at least 9 lawsuits that Generali had filed in California as a plaintiff. Certified copies of those lawsuits were filed with the Court during the oral argument. Additional research into Generali's litigation activities in California uncovered an additional 15 lawsuits where Generali invoked the California court's jurisdiction, for a total of 24 lawsuits that Generali has filed in California as a plaintiff. And, the investigation revealed that Generali had also been sued at least 80 times as a defendant in California courts, without asserting that the court lacked jurisdiction. Finally, Generali had also filed at least 2 cross-complaints in California.

On January 25, 1999, based on this and other evidence, Judge Florence Marie-Cooper denied Generali's motion to dismiss. In addition, Generali was sanctioned \$14,000 for having filed the patently misleading declaration of Mr. Baroglio. Generali has since appealed the jurisdictional ruling to the California Court of Appeal, which denied review on April 6, 1999. Generali has further appealed to the California Supreme Court, which is still pending. In the meantime, on May 28, 1999, Judge Cooper set a jury trial date of February 9, 2000.

The Stern family's struggle is but one example of many Holocaust survivors who have not been paid under insurance policies issued during the World War II era. Many other Holocaust survivors have faced similar struggles and denials, even when they have valid unpaid policies in hand. Despite having endured perhaps the most horrific chapter of our world's history, these survivors must now battle with their own insurance companies to obtain what they are rightfully owed. These insurance companies, like Generali, gladly accepted premium money, yet have denied benefits for over 50 years. Enough is enough. It's now time to pay up.