

Reparations Wrangling

As a move is under way to expand the search for Nazi-era Swiss bank account holders, the group established to speed the payment of life insurance policies from that period is coming under attack for allegedly working against the heirs' interests.

A lawsuit filed on behalf of two Holocaust survivors now living in California asserts that because the International Commission on Holocaust Era Insurance Claims is funded by the insurance companies, it is "inherently biased." The suit also alleges that the commission works to "diminish or deny" claims.

Also named in the suit is the Italian insurance giant Assicurazioni Generali, which the attorney representing the two survivors accuses of low-balling offers.

"I have one client who had a \$2,000 insurance policy and the commission offered him \$5,000," said William Shernoff, who filed the lawsuit in a state court in Los Angeles. "It does not take a rocket scientist to know that a \$2,000 policy is probably worth \$100,000 today. ... All we are trying to do is to make the process fair and allow those who want to sue to sue."

Christopher Carnicelli, president of Generali in New York, in a statement called the lawsuit "baseless" and insisted that the amounts offered through the commission have been "generous." He noted that one of Shernoff's clients recently dropped his suit and accepted the commission's offer of \$250,000.

Meanwhile, the effort to expand the search for bank account holders will check a limited number of claims against 4.1 million Swiss accounts opened between 1933 and 1945. The owners and heirs of 1,666 accounts have been identified thus far and been paid a total of \$127 million.

Burt Neuborne, the lead counsel in the \$1.25 billion settlement of Holocaust-era claims against Swiss banks, said claims until now have been checked against a select group of 36,000 possible Jewish account holders. But because the results have resulted in so few matches, Neuborne decided to expand the search to all the accounts.

To ensure the process would prove beneficial, only 2,000 names randomly selected will be checked initially.

"Both sides would then share the data and have a better idea about whether there is gold in the 4.1 million accounts or whether it would be a huge waste of money" to check all 32,000 claims that have been filed against that list, Neuborne said.

Neuborne expects it should take until about March 15 to check the test claims.

"If we get nothing, then we know we have done all we can," he said. "What complicates this is that everything we do has to be in compliance with strict Swiss laws to guard the anonymity of bank account holders."

Brooklyn Federal Judge Edward Korman, who approved the settlement and is overseeing the process, has allocated \$800 million of the \$1.25 billion settlement to pay bank claims.

Neuborne said a computer check of 32,000 claims has found matches with 12,000 accounts. Sixty auditors have investigated about half of the matches, he said. but recently acquired computer software designed to detect variations of a name that would now be used to recheck all non-paid claims.

The cost of the search is being paid from the interest earned on the \$1.25 billion.

In a related development this week, a member of an Israeli commission investigating unclaimed Holocaust assets held by banks, the state and public institutions said the commission is expected to decide later this month to release a full list of account holders.

Michael Kleiner said he fought against vetting the list against names not on file at Yad Vashem, Israel's Holocaust museum and research center. That file, he said, includes the names of only a third to a half of the 6 million Jews killed in the Holocaust.

He said he was not free to reveal how much the unclaimed assets total, but noted that news reports said the total in one bank was about \$250 million.

Asked about the lawsuit filed against Generali over claims and refusing to publish the names of all 97,000 Nazi-era policyholders, Kleiner said the insurance firm should be given credit for providing the names of its policyholders to an Israeli committee appointed by a judge and for paying claims.

A Generali spokesman said the firm has paid about \$40 million in insurance claims.

Shernoff said the lawsuit is seeking a court order to permit beneficiaries to sue insurance companies to recover their money rather than be forced to work through the International Commission on Holocaust Era Insurance Claims. He added that settlements of cases he has handled have reaped 10 to 50 times more than the commission offered.

Kenneth Bialkin, Generali's lawyer, noted that Shernoff has filed similar suits in California against Generali using other plaintiffs. But each one has been transferred to federal court, where they are now pending, he said.

Bialkin said Shernoff has also been "trying to blow ICHEIC apart, but so far he not been able to."

Generali, Bialkin noted, "was founded by Jewish people and is one of the biggest foreign investors in Israel."

Six European insurance companies, including Generali, founded ICHEIC in 1998 and fund its operation. Its membership includes representatives of the insurance companies, survivor groups, the Israeli government and state insurance commissioners from California, New York and Florida.

John Garamendi, California's insurance commissioner, has joined the suit and called for the resignation of the commission's chairman, former Secretary of State Lawrence Eagleburger.

Eagleburger, who reportedly is paid \$360,000 by the insurance companies, did not respond to phone calls but told the Los Angeles Times that he has no intention of resigning. And in a written statement, he said the commission has established a claims and valuation process and uses "relaxed standards of proof" in evaluating claims.

In congressional testimony last month, Eagleburger said the commission has spent \$56 million, received

54,000 claims and made offers for 2,600 claims in the amount of \$35 million. Last year the commission announced a deal with the insurance companies in which they would set aside \$100 million to compensate survivors for unpaid life insurance claims and another \$175 million for humanitarian needs.

But in a statement, Garamendi said the process has “taken far too long and insurers have failed to live up to their moral obligation to ensure justice is done.”

Martin Stern, an Israeli businessman who has researched the issue of Holocaust insurance accounts, pointed out that Shernoff continues to refer clients to ICHEIC if they have policies from German companies or its subsidiaries. The reason, Stern said, is because under an agreement with Germany, insurance claimants are barred from going to court to obtain a judgment. He said Shernoff was an attorney in that agreement and received nearly \$4 million in fees.

Stern said also that the German agreement should be declared void because German insurance companies insisted before the settlement that they had few if any records of policyholders. Now, he said, they are suddenly finding hundreds of thousands of records.

In an unrelated development, the Conference on Jewish Material Claims Against Germany published on its Web site Monday a list of Jewish-owned property in the former East Germany that it received or is seeking compensation for under the German restitution law. Owners or their heirs have until March 31 to seek compensation for the property.