

## **Holocaust Resolution**

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Whereas a significant and unknown number of legitimate insurance policies from the Holocaust era are as yet unpaid;

Whereas many of those unpaid insurance policies result from policies written by or assumed by European insurance companies that have affiliates doing business in the United States;

Whereas the issue of unpaid insurance policies is one of primary importance under the insurance codes of all U.S. states and territories;

Whereas this issue is of significant importance to the National Association of Insurance Commissioners (NAIC);

Whereas the NAIC has formed a Holocaust Task Force;

Whereas the NAIC and its members were instrumental in the formation of the International Commission on Holocaust Era Insurance Claims (ICHEIC) as a mechanism for resolving unpaid Holocaust-era insurance claims;

Whereas companies that have joined and are operating in good faith in ICHEIC have received “safe harbor” from heightened regulatory scrutiny under the statutes and administrative practices of many states;

Whereas the NAIC, through hearings and the operations of its Holocaust Task Force, continues to monitor the progress of this issue;

Whereas the Holocaust Task Force has reported that the progress made on paying claims submitted through ICHEIC has been disappointing;

Whereas the Holocaust Task Force has reported that some companies are not cooperating in supplying policyholder lists;

Whereas the German Foundation, “Remembrance, Responsibility, and the Future,” which resulted from an Executive Agreement between many parties, including the governments of the United States and Germany and German industry, created funds to pay Holocaust-era insurance claims;

Whereas the main tangible benefit to be gained by German industry as a result of its participation in the Foundation is “legal peace” in the judicial processes of the United States;

Whereas the U.S.-German Executive Agreement calls for ICHEIC to administer the payment of DM 200 million for claims; DM 100 million for claims reserves; and DM 350 million for humanitarian purposes;

Whereas the U.S.-German Executive Agreement and accompanying documents call for the German Foundation and the German Insurance Association to work with ICHEIC and to follow core ICHEIC standards;

Whereas the Foundation and ICHEIC have negotiated for over a year on how the German companies will implement these core ICHEIC standards and the Foundation presently has not agreed to ICHEIC standards with respect to the publication of policyholder lists; transparent audits of company records and procedures; and the establishment of an accountable appeals process for denied claims;

Whereas the Foundation has presented the ICHEIC with a proposal that calls for the reimbursement of \$76 million in Foundation funds to German companies for processing Holocaust-era claims and making humanitarian payments – thus diverting to the companies over one half of the claims money and a retroactive \$36 million reimbursement of past company payments to ICHEIC;

Whereas the state insurance regulators on the ICHEIC have objected to this proposal;

Whereas slave and forced labor payments by the Foundation have already commenced but insurance claims and humanitarian payments have not and will not be made until the issues involving costs, publication of lists, audits, and appeals are resolved;

Whereas the ICHEIC-Foundation negotiations are ongoing and a full ICHEIC meeting is scheduled for October 16, 2001;

Whereas the two year period for filing insurance claims with ICHEIC is due to end February 15, 2002;

**IT IS HEREBY RESOLVED:**

That the NAIC, collectively and through its individual members, deems the problems that are impeding the implementation of the German Foundation's insurance provisions to be a matter of the utmost public importance;

That the Foundation must come to agreement with ICHEIC on standards that are consistent with ICHEIC's rules regarding publication of lists, audits of company records, and appeals of adverse company decisions;

That the Foundation's proposal to allow the companies to recoup \$76 million intended to benefit Holocaust survivors and their heirs is unacceptable;

That the NAIC's Holocaust Task Force is instructed to closely monitor the progress of the ongoing Foundation negotiations and regularly report back to the NAIC national officers and the NAIC membership;

That until this matter is resolved, individual states should, as appropriate, take any or all of the following steps as allowed by law: reevaluate the formal or informal “safe harbor” provisions given to affected insurers; hold hearings about the German Foundation-ICHEIC negotiations and also about the progress made by ICHEIC member companies in processing and paying legitimate claims; and make filings in relevant court cases involving the matter of unpaid Holocaust-era insurance claims; and

That nothing in this resolution is intended to affect or question the legality or enforceability of any state law relating to Holocaust era insurance.