

# Committee on Government Reform



## **MEDIA ADVISORY**

For Immediate Release  
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### **“Holocaust Era Insurance Restitution after *AIA v. Garamendi*: Where Do We Go From Here?” *Eagleburger to testify***

**WHAT:** Government Reform Committee hearing on “Holocaust Era Insurance Restitution after *AIA v. Garamendi*: Where Do We Go From Here?”

**WHEN:** Tuesday, September 16, 2003, 2 p.m.

**WHERE:** 2154 Rayburn House Office Building:

#### **Background:**

The purpose of this hearing is to examine the impact of the recent Supreme Court decision in *American Insurance Association v. Garamendi*, which overturned a California state law proposing sanctions against insurance companies that fail to publish information about Holocaust-era policies.

In light of the Supreme Court’s decision, the Committee will consider whether there is a need for congressional or executive branch action. The Committee will also examine whether the International Commission on Holocaust-Era Insurance Claims (ICHEIC) is fulfilling its mission to address the insurance claims of Holocaust victims and their heirs and beneficiaries.

#### **SUPREME COURT CASE *AIA v. GARAMENDI***

On June 23, 2003, the Supreme Court decided 5-4 to strike down a California law, the Holocaust Victims Insurance Relief Act, which provided for the suspension of the license of any insurance companies operating in the state that failed to publish information about Holocaust-era policies. The opinion determined that the state did not have the right to interfere in the national government’s handling of foreign affairs. It is the policy of the U.S. government that ICHEIC serve as the sole remedy for Holocaust-era insurance claims.

The Court reasoned that California's approach would undercut the President's diplomatic discretion to encourage insurance companies to voluntarily disclose the information through ICHEIC. The Court's decision may invalidate a number of similar state laws enacted to penalize companies that fail to report the names of Holocaust-era policyholders to state insurance offices or ICHEIC.

However, the Supreme Court's opinion also clearly noted that Congress has not disapproved of the executive's policy and that it is impossible to interpret congressional silence as approval or disapproval, thereby leaving open the possibility of congressional action. Two bills have been introduced in the 108<sup>th</sup> Congress to address this issue:

**H.R. 1210**, the "Holocaust Victims Insurance Relief Act," introduced by the Committee's Ranking Member, Rep. Henry Waxman (CA), and Rep. Eliot Engel (NY), would require all insurance companies operating in the United States to publish basic policyholder information for all life, dowry, education, and annuity policies in effect in areas under Nazi control between 1933 and 1945. The National Archives and Records Administration would publicly disseminate this information. Companies that fail to comply would face financial penalties.

**H.R. 1905**, the "Comprehensive Holocaust Accountability in Insurance Act," introduced by Reps. Mark Foley (FL) and Steve Israel (NY), would authorize states to pass laws requiring insurance companies operating in their jurisdiction to disclose the status and policyholder information for all insurance policies in effect between 1920 and 1945 and create a cause of action to allow claimants to bring cases against insurance companies in federal court.

This is the third Government Reform Committee hearing related to this issue. On November 8, 2001, the Committee held an oversight hearing to examine ICHEIC's claims approval rate. Witnesses at the hearing provided numerous reasons for ICHEIC's low claims approval rate. Many suggested that a primary obstacle in claims processing was that over 80 percent of all ICHEIC applicants could not name the company holding their assets. Concerns also were raised about problems with ICHEIC management and oversight. In addition, members of ICHEIC and the State Department also testified that participation of insurance companies was marked by delays and obstruction, as companies failed to provide comprehensive lists of policyholder names.

On September 24, 2002, the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations held a hearing to study the feasibility of federal legislation requiring insurance companies operating in the United States to publish information about Holocaust-era policies.

At the third hearing, the Committee will examine:

- The impact of the recent Supreme Court decision on the ICHEIC process and on the ability of Holocaust victims and their heirs to have their insurance policies honored;
- Whether Congress should act in light of the Supreme Court decision;
- What the Administration should be doing;
- Whether insurance companies are fully cooperating to provide documentation of

- holocaust-era insurance policies; and
- Potential improvements to the process to ensure that ICHEIC is accountable to its stakeholders.

## **WITNESSES**

### **Panel I:**

#### **The Honorable Randolph Marshall Bell**

Special Envoy for Holocaust Issues  
Bureau of European Affairs  
U.S. Department of State

### **Panel II:**

#### **The Honorable Lawrence S. Eagleburger**

Chairman  
International Commission on Holocaust Era Insurance Claims (ICHEIC)

#### **Gideon Taylor**

Executive Vice-President  
Conference of Jewish Material Claims Against Germany

#### **Gregory V. Serio**

Chairman  
International Holocaust Commission Task Force of the National Association of Insurance Commissioners (NAIC), NAIC representative to ICHEIC

#### **Roman Kent**

Chairman  
American Gathering of Holocaust Survivors

### **Panel III:**

#### **Israel Arbeiter**

President  
American Association of Jewish Holocaust Survivors of Greater Boston, Inc.

#### **Danny Kadden**

Holocaust Survivor Advocate

#### **Michael J. Bazylar**

Professor of Law  
Whittier Law School

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