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Statement
by
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to the
U.S. House of Representatives
Committee on Government Reform
Subcommittee on Government Efficiency, Financial
Management and
Intergovernmental Relations

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Mr. Chairman, ladies and gentlemen. I am honored to have been invited to testify today about a matter which so deeply concerns this Administration. It is my understanding that our concentration today will be on "next steps" following the recent Supreme Court decision in the Garamendi case. I am not a lawyer, and official lawyers would take a very dim view of my addressing constitutional or other doctrines, which are their purview. So, if I may take the liberty, I would restate this for my own purposes as "next steps in getting as many Holocaust survivors and heirs of Holocaust victims as possible paid as quickly and as fully as possible on the basis of Holocaust-era insurance claims." That is

perhaps long-winded, but I think it sums up what everyone in this room wants to see.

In my testimony last autumn before the House Government Reform Committee, I outlined the history of efforts to date to achieve this purpose. I made the following points:

- I recalled how, following the 1998 Washington Conference on Holocaust Assets, the United States expressed its support for the International Commission on Holocaust-Era Insurance Claims (ICHEIC).
- I noted that, at the request of the parties that signed the ICHEIC Memorandum of Understanding, the U.S. Government became formally an observer to the ICHEIC negotiations and process, but not a direct participant in it.
- I explained how we as observers and many of the ICHEIC negotiating parties shared the widespread frustration with the pace of payments on claims.

Part of the problem was that it took so long to establish a climate of trust and confidence among the participants in ICHEIC.

Ultimately, of course, this proved possible, and recently ICHEIC has been able to increase the pace of payments.

I am pleased to note that the ICHEIC process enjoys today the full support of survivors' groups, of major Jewish-American NGOs, and of the Government of Israel, as well as of the Administration.

With regard to the specifics of the process for paying Holocaust survivors and heirs, I will leave these in the able hands of Chairman Eagleburger, who I believe is also scheduled to testify today.

Let me, however, cite at least one important achievement of recent months.

On April 30, the ICHEIC parties resolved one of the key issues in the process by reaching agreement on a name-matching mechanism devised as a means of assuring that all prospective Holocaust-era insurance claims can be found and processed. This mechanism significantly augments the lists that were previously available for matching names against policies, adding to the published dissemination of names some 360,000 new entries.

Combined with the 40,000 names that companies and archives had previously provided and the 150,000 names that ICHEIC itself had made available, this new release has made possible the world-wide dissemination via ICHEIC's website of some 550,000 names. We should recall, of course, that a name may match more than one actual insurance policy, since many people had more than one.

The names available represent the very best efforts of all the ICHEIC participants, including Yad Vashem, and of the international community generally, to produce an exhaustive list of potential German Jewish insurance policy holders. The new, 360,000-name list draws on many archival sources, including the 1938 German census data, which carefully listed all Jewish German citizens, emigration statistics, and local archives.

All the available names are matched carefully against the total of more than 8 million names contained in the companies' internal files for the years 1920 through 1945.

And here we reach a crucial point of our inquiry. The central question we have all been looking at is 'Shouldn't the companies publish all the 8 million-odd names of policyholders?' A variant of that has been 'Shouldn't we require that, as a condition of doing

business in the U.S., the companies publish all the insured names for the years 1920 through 1945?' Although these widely inclusive approaches presumably seek to assure that every conceivable historical connection with events leading up to and subsumed under the Holocaust is taken into account, the practical answer to these questions is "no." That would have been the answer under the previous Administration, and it remains the answer now.

Requiring such extensive publication of names would probably not get any additional claimants paid and, indeed, would almost certainly stop the current, now much-improved process whereby claimants actually are getting paid. The matching mechanism, which enjoys full confidence and support inside and far outside the ICHEIC negotiating circle, really will help identify claims. Publishing more names won't. There is little, if anything, to be gained from requiring far broader disclosure of millions of names, the vast majority of which in no way relate to the Holocaust, whether those be the 8 million names on company lists or the tens of millions of unrelated names from the 1920-1945 period.

Through ICHEIC, insurance companies are making records available in a way that companies and governments agree will not

violate European privacy laws. Attempting to mandate far wider publication and make public large numbers of names and policies that were not Holocaust-related would derail the ICHEIC system. Because that system is an integral part of the German Foundation, "Remembrance, Responsibility, and the Future," that would in turn seriously undercut the functioning of a body which is attempting as rapidly as possible to pay out more than \$5 billion dollars not only to insurance claimants, but also to forced and slave laborers and other deserving recipients. Let me reiterate. The vast majority of tens of millions of names from the 1920 to 1945 period, and the 8 million in company files, are not those of Holocaust victims.

So requiring such extensive publication is both unnecessary and counterproductive. Let me stress that we have always proceeded from the urgent premise that we want people paid while they are still alive. Mandated, large-scale publication of names would at best engender additional class-action litigation, and both the previous and current Administrations have espoused a policy of seeking redress through non-adversarial, non-judicial means. We have adopted this approach because litigation would take years to

achieve any results, if indeed it ever did so, and benefit at most a few at the expense of the many.

I believe it is important to note that ICHEIC has continually managed to introduce improvements. It has, for example, extended its deadlines for filing claims from September until the end of this year.

I think, Mr. Chairman, the best course of action is to support ICHEIC's recent achievements and improved system, and indeed to work concertedly on all fronts to make that system as effective and as universal as it possibly can be. ICHEIC is already paying an increasing number of claims.

- ICHEIC has reported that it has received about 60,000 claims and processed 54,000.
- According to ICHEIC, ICHEIC and ICHEIC insurance companies have made a total of 3,250 offers for a total of \$42.5 million.

I note in this regard that the agreements with ICHEIC provide \$217.5 million for its claims-based process and an

additional \$195 million available for humanitarian payments. The objective of all involved is to ensure that the \$217.5 million is paid out as quickly as possible. Already, \$42.5 million in offers have been made, which is 20 percent of the \$217.5 million available for claims. The humanitarian portion, that is the \$195 million, was always intended by the parties to the ICHEIC agreement to be paid out over several years.

Thus, ICHEIC'S agreements with German companies, the Italian insurer, Generali, and with Swiss and French companies, provide a total of at least \$412 million for insurance-related payments through the ICHEIC system -- and possibly also \$462 million if the German Foundation's Future Fund reserve for insurance claims is drawn upon.

The figures I have just mentioned do not, of course, include the some \$100 million that are being paid outside the ICHEIC context, or that will eventually become available from the settlement with Austria. The Austrian agreement provides \$25 million for insurance claims. The Swiss Bank settlement allocates \$50 million to pay claims via the Claims Resolution Tribunal. Dutch insurers are providing \$25 million for claims, largely paid outside of the ICHEIC process.

The choice for claimants has always been between a negotiated settlement and litigation. Sticking with the negotiated settlement is far preferable to years of uncertain litigation. Without the ICEIC and related agreements, it is unlikely that such vast sums would ever flow to Holocaust survivors and heirs.

Mr. Chairman, let us work together to improve and perfect this system -- not derail it.

I thank the Committee for the opportunity to testify today. I would be happy at this point to take questions.