

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

ADA PADOVANO
LAURA ELENA PADOVANO
52 Arden Street
New York 40, New York

Claim No. IT-10,354

Decision No. IT-27-2

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

Counsel for Claimants:

EDWARD L. MERRIGAN, Esquire
425 - 13th Street, N. W.
Washington 4, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on July 7, 1959, a certified copy of which was duly served upon the claimants. Full consideration having been given to the objections of the claimants, filed within the ten-day period after such service which has now expired, and general notice of the Proposed Decision having been given by posting for ten days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim, and it is further

ORDERED that the awards granted pursuant thereto be certified to the Secretary of the Treasury.

Washington 25, D. C.

AUG 5 1959

Whitney Hilliland
Pearl Pace
Robert L. Kunzig

COMMISSIONERS

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EDWARD L. MERRIGAN, Esquire
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PROPOSED DECISION

This timely filed claim is before the Commission by virtue of an amendment to Section 304 of the International Claims Settlement Act of 1949, as amended pursuant to Section 2, Public Law 85-604. The claim was asserted by Ada Padovano in the amount of \$32,000.00 as sole owner, for the alleged loss of certain real property located at 31 Via Andrea del Castagno, Florence, Italy, which was " . . . bombed out and almost completely destroyed . . . " during an aerial bombardment in the late summer of 1943. Claim was also asserted in the amount of \$5,000.00 for loss of personal property, including certain property at the aforesaid address which was allegedly destroyed in part during the bombing but the " . . . furniture was stolen by Germans". Further, claim was made in the amount of \$1,000.00 for losses arising when " . . . stocks and bonds had to be sold by reason of the bombing damage sustained and loss of income which resulted therefrom".

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Prior to amendment at the 2d Session of the 85th Congress, Section 304 was as follows:

The Commission shall receive and determine, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, the validity and amount of claims of nationals of the United States against the Government of Italy arising out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the Treaty of Peace with Italy.

The record indicated that Ada Padovano, claimant herein, became a citizen of the United States on May 6, 1955. A claim filed by Ada Padovano was denied in a Proposed Decision dated December 21, 1956, for the reason that claimant was not a national of the United States at the time that the claim arose. A Final Decision was issued on May 8, 1957. Since claimant, Ada Padovano, was not eligible for compensation under the Act in the aforementioned respect, other elements of the claim were not considered by the Commission, nor was it required to make such determinations.

On August 8, 1958, the following amendment to Section 304 (Section 2, Public Law 85-604, 72 Stat. 531) was approved:

Section 304 of the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof the following: "Upon payment of the principal amounts (without interest) of all awards from the Italian Claims Fund created pursuant to Section 302 of this Act, the Commission shall determine the validity and amount of any claim under this section by any natural person who was a citizen of the United States on the date of enactment of this title and shall, in the event an award is issued pursuant to such claim, certify the same to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims World Fund . . ."

With respect to the facts presented herein, the Commission finds that Public Law 85-604 has removed the nationality requirement previously discussed herein, namely, that claimant be a national of the United States on the date that the claim arose. This conclusion is based more particularly on the following language employed in Public Law 85-604, relating that . . .

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the Commission shall determine the validity and amount of any claim under this Section by any natural person who was a citizen of the United States on the date of enactment of this title"

This amendment to Section 304 of the Act refers to the eligibility of those claimants who became nationals of the United States prior to enactment of the Act, August 9, 1955, and to residual benefits in the Italian claims fund in the event that an award is made upon the merits of their respective claims. Such amendment to Section 304 of the Act does not remove other requirements expressed in Section 304 concerning eligibility of claimants, as follows:

. . . the validity and amount of claims of nationals of the United States against the Government of Italy arising out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the Treaty of Peace with Italy.

The evidence of record in this claim indicates that at the time when bomb damage was allegedly inflicted on the property in question during World War II, the claimant, Ada Padovano, and her two daughters each owned respective one-third interests in the property, located at Florence, Italy. One of these daughters, Laura Elena Padovano, became a naturalized citizen of the United States on February 18, 1952, but the other daughter, Wanda Padovano, did not become a citizen of the United States. The Commission finds that since Laura Elena Padovano became a citizen of the United States on the above date and was part owner of the property in question at time of loss or damage during World War II, the claim is amended to include Laura Elena Padovano as a claimant in this matter.

With respect to the nature and extent of the damage inflicted upon the premises at 31 Via Andrea del Castagno, Florence, Italy, the record includes a document which has reference to a sale of the said property by claimants herein and Wanda Padovano, as vendors, to Leopoldo Cappellini, the buyer, as follows:

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With purchase deed of Notary Public Rogantini dated October 30, 1944, registered according to the law, Mrs. Ada Bemporad, widow of Mr. Padovano, Misses Wanda Padovano and Laura Padovano sold, each and every party for their own rights, to Mr. Leopoldo Cappellini, who bought for the price of Italian Lire 195,000 the following real estate property: a small mansion and annexed yard located at . . . composed of two story plus basement with a total of approximately 18 rooms, built over the grounds identified at the Surveyor's Office in Florence . . .

The record includes an affidavit executed by Guido Rogantini, Attorney and Notary Public, dated June 5, 1959, in which affiant refers to the aforesaid sale and describes the property prior to the sale as follows:

. . . had been badly damaged by air bombardments during the war . . .

In a letter dated June 6, 1959, from Renato Gramigni to claimant, Ada Padovano, Mr. Gramigni advised as follows:

I add that I saw the house after the bombardment and I remember that the roof, the entire back part of the building and part of the front were completely destroyed. Therefore, you had to live in a rented apartment until you left for the United States.

The evidence concerning extent of loss, value of premises at time of loss and exact date of loss have not been fully established. However, available documentation indicates that the house was substantially damaged on or about September 1, 1943, when Italy was engaged in World War II; that the damage to the house at 31 Via Andrea del Castagno, Florence, amounted to \$21,000.00; and that claimants herein are entitled to awards, commensurate with their respective one-third interests, as provided by the International Claims Settlement Act of 1949, as amended.

With respect to the personal property located in the house at the aforesaid location, the Commission finds that while the evidence of record indicates that some personal property was apparently destroyed in the aerial bombardment on or about September 1, 1943, no evidence has been submitted to establish the type and extent of

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the personal property lost, date or dates of loss, the value of such property at time of loss and the exact ownership interests in the personalty. Further, the claimant, Ada Padovano, has indicated that the furniture in the house was stolen by Germans which would not, of course, give rise to a compensable claim herein against the Government of Italy. In these circumstances, however, in fairness to the claimant, the Commission does not desire to deny the claim entirely for it is generally shown that Ada Padovano owned some personal property, such as books, silverware and other items, which was lost as a result of the aforesaid aerial bombardment on or about September 1, 1943, while Italy was engaged in World War II.

Accordingly, the Commission has determined that the value of the personal property owned and lost by Ada Padovano on or about September 1, 1943, is \$1,500.00; and that said claimant is entitled to an award in this amount under the Act.

Reference is made to the claim by Ada Padovano for losses arising when " . . . stocks and bonds had to be sold by reason of the bombing damage sustained and loss of income which resulted therefrom". The Commission finds that claimant has not identified such stocks and bonds and has not submitted evidence concerning ownership, loss or value of such personal property. In this connection, Section 531.6(d) of the Commission's regulations (43 C.F.R. Supplement 290) provides as follows:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim.

Claimant has not established that this portion of her claim involves any of the acts or failures to act for which Italy is responsible under the above-mentioned statute. Accordingly, this portion of the claim is hereby denied.

A W A R D S

It is therefore ORDERED that said claim be and the same is hereby allowed and an award made to Ada Padovano in the sum of \$8,500.00, together with interest in the amount of \$2,367.25;

And an award made to Laura Elena Padovano in the sum of \$7,000.00, together with interest in the amount of \$1,949.50, being 6 percent per annum from September 1, 1943 to April 23, 1948, the date of payment by the Government of Italy of \$5,000,000 pursuant to the Memorandum of Understanding dated August 14, 1947, PROVIDED that no payment shall be made with respect to this award until payment in full, from the Italian Claims Fund created pursuant to Section 302, of the principal amounts (without interest) of all awards upon claims determined under the original provisions of Section 304.

Dated at Washington, D. C.

FOR THE COMMISSION:

JUL 7 1959



J. Noble Richards

WJL

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FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

ADA PADOVANO
52 Arden Street
New York 40, New York

Claim No. IT-10,354

Decision No. IT_27

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Attorney for claimant:

EDWARD L. MERRIGAN, Esquire
Weil, Gotshal & Manges
425 13th Street, N. W.
Washington 4, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on December 21, 1956, a certified copy of which was duly served upon the claimant. Full consideration having been given to the objections, and the evidence and the arguments presented at a hearing held on April 10, 1957, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Washington 25, D. C.

MAY 8 1957

Whitney Gilliland

Henry S. Clay

COMMISSIONERS

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
Washington 25, D. C.

[Handwritten initials]

In the Matter of the Claim of

ADA PADOVANO
52 Arden Street
New York 40, New York

Claim No. IT-10,354

Decision No. *It-27*

Under Section 304 of the International
Claims Settlement Act of 1949, as Amended

WEIL, GOTSHAL & MANGES
Edward L. Merrigan, Esquire
425 13th Street, N. W.
Washington 4, D. C.

PROPOSED DECISION

This is a claim against the Government of Italy under Section 304 of the International Claims Settlement Act of 1949, as amended.

Section 304 of the aforesaid Act provides for the receipt and determination by the Commission, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Italy, arising out of the war in which Italy was engaged from June 10, 1940 to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy.

Under a well established principle of international law, eligibility for compensation requires that the property which was the subject of damage or loss must have been owned by a United States national at the time the damage or loss occurred and that the claim arising as a result of such damage or loss, must have been continuously owned thereafter by a United States national or nationals.

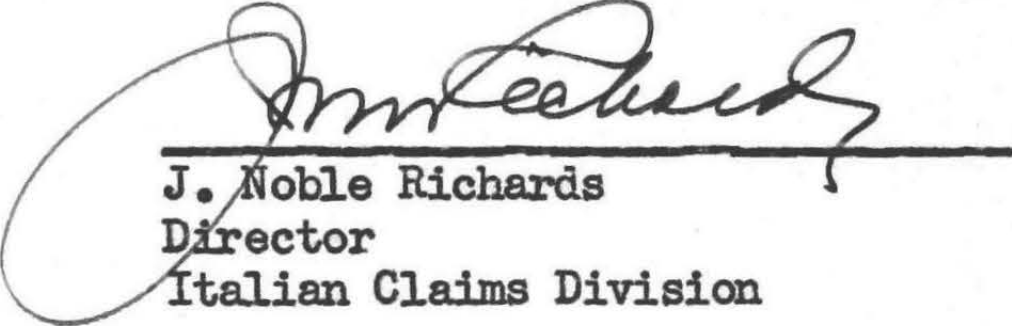
The Commission's records disclose that the claimant was not a national of the United States at the time the loss or damage to her property occurred.

For the foregoing reason, the claim must be, and is hereby, denied. Other elements bearing upon eligibility have not been considered.

Dated at Washington, D. C.

FOR THE COMMISSION:

DEC 21 1956



J. Noble Richards
Director
Italian Claims Division