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

In the Matter of the Claim of

EUGENE L. GARBATY Shorehaven, East Norwalk Connecticut

Claim No. RUM-30,250

Decision No. RUM-13

Under Section 303 of the International Claims Settlement Act of 1949, as amended

FINAL DECISION

on January 30, 1957, a certified copy of which was duly served upon the claimant(s). No objections or request for a hearing having been filed within twenty days after such service 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.

Dated at Washington, D. C.

MAY 1 5 1957

Whitney Gillilland

Whitney Gillilland

Commissioners

Commissioners

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

In the Matter of the Claim of

EUGENE L. GARBATY Shorehaven, East Norwalk, Conn.

Against the Government of Rumania Under the International Claims Settlement Act of 1949, as Amended. Claim No. RUM-30,250 Decision No. RUM-/3

## PROPOSED DECISION

This is a claim under the provisions of the International Claims

Settlement Act of 1949, as amended, against the Government of Rumania

by EUGENE L. GARBATY for the failure of the said government to meet its

contractual obligations with respect to certain lei bonds, and presumably

for loss due to the nationalization by the Government of Rumania of a

corporation in which he alleges a stock interest.

The record shows that claimant alleges that he presently holds 4% Rumanian Einheits Gold Rente Bonds of 99,000 lei face value and shares of "Steaua Romana", a Rumanian corporation, apparently of 30,000 lei par value.

Section 303(3), the only provision of the Act authorizing the Commission to receive and determine claims based upon the failure of the Government of Rumania to meet its contractual obligations, specifically provides that such obligations as come within its purview must be "expressed in currency of the United States." Thus, claims based upon obligations, such as claimant's Einheits Gold Rente bonds, which are expressed in currencies other than that of the United States, are not compensable under the Act.

With respect to that part of this claim which is based on claimant's alleged ownership of stock in "Steaua Romana," a Rumanian corporation with a 1943 capitalization of  $1\frac{1}{2}$  billion lei which was nationalized pursuant to law number 119, dated June 11, 1948 of the Government of Rumania, it is clear that one of the conditions which must be met before claimant can establish his entitlement to an award under Section 303 of the Act, is that which is imposed by Section 311(b) of the Act which provides as follows:

"A claim based upon an interest, direct or indirect, in a corporation or other legal entity which directly suffered the loss with respect to which the claim is asserted, but which was not a national of the United States at the time of the loss, shall be acted upon without regard to the nationality of such legal entity if at the time of the loss at least 25 per centum of the outstanding capital stock or other beneficial interest in such entity was owned, directly or indirectly by natural persons who were nationals of the United States."

The reports of the Committees of Congress which considered the legislation which, when enacted, incorporated 311(b) into the International Claims Settlement Act of 1949, leave no doubt that Section 311(b) was intended to exclude from the scope of the Act those claims which are based on interests in non-national corporations or other legal entities which were not at least 25% owned by nationals of the United States. In describing the intended effect of Section 311(b), the Report of the House of Representatives' Committee On Foreign Affairs stated in part as follows:

"Accordingly, the bill provides that awards based on such indirect interests will be made only if, at the time of the loss at least 25 per cent of the stock or other beneficial interest in the corporation which suffered the loss was owned directly or indirectly by individual United States nationals." 1/

<sup>1/84</sup>th Congress, 1st Session-House Report No. 624 @ P. 17 & 18

Similarly, the Senate Committee on Foreign Relations expressed its understanding of the intent which was manifested by the inclusion of Section 311(b) in the Act in its report as follows:

"Its primary purpose, however, was to eliminate claims based upon a holding of 1 or 2 shares which would hardly justify the expense and effort of processing." 2/

Claimant's 30,000 lei interest in "Steaua Romana" represents but a small fraction of the total capitalization of the company. He has not offered evidence of any ownership interests in the company other than his own in order to establish that at least 25% of the corporation was owned by natural persons who were nationals of the United States. Moreover, it does not appear, from information available to the Commission, that the ownership interest in "Steaua Romana" of nationals of the United States approximated anywhere near 25% of the total capitalization of the company. Thus, it must be concluded that claimant has not established that at least 25% of "Steaua Romana" was owned by natural persons who were nationals of the United States.

Accordingly, for the foregoing reasons, this claim is denied.

Dated at Washington, D. C.

JAN 3 0 1957

FOR THE COMMISSION:

Donald G. Benn, Director Balkan Claims Division

2/84th Congress, 1st Session-Senate Report No. 1050 @ P.7