

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

IN THE MATTER OF THE CLAIM OF

KARL J. SCHUMER, Executor of the
Estate of JULIUS SCHUMER, deceased
120 Wall Street
New York 5, New York

Claim No. SOV-41,044

Decision No. SOV-3100

Under the International Claims Settlement
Act of 1949, as amended

epo 16-72126-1

FINAL DECISION

The Commission issued its Proposed Decision on this claim on May 11, 1959, a copy of which was duly served upon the claimant. Full consideration having been given to the objections of the claimant, filed within the twenty-day period after such service which has now expired, 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, and it is further

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

Washington 25, D. C.

JUN 29 1959

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Whitney Hilliland
Paul Pace
Robert L. Kunzig

COMMISSIONERS

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PROPOSED DECISION

This claim for \$26,100.00 against the Soviet Government under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended, is based upon damages sustained by Julius Schumer, deceased, for property taken by soldiers of the Imperial Russian Government during World War I, for personal injuries suffered, and for false imprisonment.

The record before the Commission shows that Julius Schumer, a national of the United States by naturalization on July 22, 1913, resided on August 22, 1914, in Buczacz, then in Galicia, Austria, when that town was occupied by units of the Imperial Russian Army. Claimant asserts that on that occasion Russian soldiers took from Julius Schumer cash in the amount of \$700.00; jewelry (watch, chain and a diamond ring) valued at \$225.00; and clothing belonging to Schumer and his family valued at \$175.00. Claimant also asserts that said Julius Schumer suffered personal injuries in that the soldiers of the occupying Army, beat him and knocked out two of his front teeth and one upper tooth. Additionally, it is asserted that Julius Schumer was deprived of his liberty for about twelve months, maltreated, held without food and forced to change his domicile from time to time. On or about August 1915, Buczacz was retaken by the Austrian Army, and Schumer, with the assistance of the officials of the American Embassy in Vienna, Austria,

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returned to the United States. Claimant asks compensation in the amount of \$25,000.00 as damages resulting from the personal injuries and imprisonment suffered during the Russian occupation of Buczacz.

Julius Schumer died on December 14, 1955, leaving surviving him as sole legatee under his will his widow, Lena Schumer, a United States national. Claimant was appointed Executor of his estate and is currently acting in such capacity.

The evidence before the Commission indicates that during the occupation of Buczacz by the Russian Army, Julius Schumer was subjected to temporary limitation of freedom of movement and that he was required to remain within the limits of the town of Buczacz. No evidence has been submitted that Schumer was actually held a prisoner or confined to a prison or stockade. On the basis of evidence before it, the Commission finds that the action of the Russian Occupation Army in limiting the freedom of movement of inhabitants of this occupied town was within the legitimate scope of military activities in enemy territory. Accordingly, a valid claim against the Soviet Government under Section 305(a)(2) of the Act based on this item of false imprisonment has not been established. That part of the claim based on false imprisonment is, therefore, denied.

The evidence before the Commission indicates, however, that the looting and the personal injuries inflicted on Julius Schumer did not come about or result from an incident to the proper conduct of military operations. Under the circumstances, the government is responsible for the acts of its troops. In Borchard, Diplomatic Protection of Citizens Abroad (1916), we find the following statements:

"Soldiers may be considered authorities rendering the state liable for their acts when they are under command of their officers." (Page 193)

"The Government is liable for violations of the rules of war and particularly for wanton pillage,.... of neutral property of Government soldiers." (Page 223)

"The destruction of private property in war where no military end is served is illegitimate." (Page 261)

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To the same effect, see Hackworth, Digest of International Law, Vol. V. page 683.

On July 28, 1919, the Soviet Government decreed that "all claims against the State in connection with the Imperialist War of 1914-1918 shall be annulled". The Commission finds that the claim for looting of the personal property and for personal injuries inflicted on Julius Schumer, was a valid claim against the Imperial Russian Government; that such claim was arbitrarily annulled by said decree; and that claimant has a valid claim for such items against the Soviet Government under Section 305(a)(2) of the Act.

On the basis of all evidence before it, the Commission concludes that claimant is entitled to the sum of \$1,100.00 as compensation for the personal property taken by the soldiers of the Imperial Russian Army and for \$400.00 by reason of personal injuries inflicted on Julius Schumer, plus interest at the rate of 6% per annum from July 28, 1919, the date of repudiation of war obligations by the Soviet Government to November 16, 1933, the date of the Litvinov Assignment (Section 301(6) of the Act).

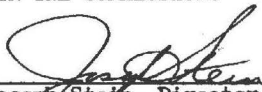
A W A R D

On the above grounds, and upon the entire record, an award is hereby made to KARL J. SCHUMER, Executor of the Estate of JULIUS SCHUMER, deceased, in the principal amount of one thousand five hundred dollars (\$1,500.00) plus interest thereon in the amount of one thousand two hundred eighty-seven dollars (\$1,287.00). No determination is made with respect to interest for any period subsequent to November 16, 1933.

Payment of the award herein, in whole or in part, shall not be construed to have divested claimant herein, or the Government of the United States on his behalf, of any rights against the Government of the Soviet Union, for the unpaid balance, if any, of the claim.

Dated at Washington, D. C.

FOR THE COMMISSION:


Joseph Stein, Director
Soviet Claims Division

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