

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

In the Matter of the Claim of

**PAUL NEUBERGER**  
16 West 46th Street  
New York 17, New York

Docket No. Y-1626

Decision No. 1343

Under the Yugoslav Claims Agreement  
of 1948 and the International Claims  
Settlement Act of 1949

*OK ✓  
JMS  
24, 1954*

*Approved  
AK  
11-26-54  
WJL*

**FINAL DECISION**

Thirty days having elapsed since the claimant(s) herein and the Government of Yugoslavia were notified of the Commission's Proposed Decision on the above claim, and the claimant(s) having filed no objections thereto, and a brief filed by the Government of Yugoslavia having received due consideration, such Proposed Decision is hereby adopted as the Commission's Final Decision on the claim.

Done at Washington, D. C. DEC 6 1954

*12.7.5  
JMS*

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ok.  
H  
10/12/54

PROPOSED DECISION OF THE COMMISSION

This is a claim for \$240,000 by Paul Neuberger, a citizen of the United States since his naturalization on August 2, 1945, and is for the asserted value of 2,850 shares of stock allegedly owned by him in the Petrovgradska Fabrika Strojeva i Termotchnickih Naprava, a.d., in Petrovgrad, Yugoslavia, whose assets, it is asserted, were confiscated by the Government of Yugoslavia, pursuant to proceedings hereinafter described, in 1946 or 1947. The corporation is said to have had outstanding a total of 3,000 shares.

Investigation has established that by decree of the County Court of Zrenjanin (NEK 131/46, No. Vp 2972/46) of November 22, 1946, confirmed by the decree of the Supreme Court of Vojvodina (Nr kz 887/946) of December 16, 1946, entered, presumably, in proceedings instituted under the Yugoslav Confiscation Law of June 12, 1945 (Official Gazette No. 40 of June 12, 1945), the property of this company was confiscated. The claimant has submitted an unauthenticated copy (purportedly made at his request by one Avram R. Mevora, a Belgrade attorney) of a certificate, dated January 3, 1947, by the District Court South in Zrenjanin, which recites the above-mentioned decree and indicates that it had been executed.

gms  
OK  
Oct 8, 1954

B7  
H.N.S.

The claimant, in his Statement of Claim, states that he acquired all of the outstanding shares of the corporation "around 1930" in consideration of his assuming all of the debts of the corporation, of which the then shareholders were guarantors. Thereafter, it is stated, 150 shares were given by him to the managers of the factory, Paul Bjelinski, now a resident of Brazil, and Djuka Kohn, subsequently killed in a concentration camp.

The claimant further asserts that he fled Yugoslavia for the United States in 1940 and has never returned; that "during the war" his shares were held for him by Dr. Nikola Djuriscic, a Belgrade attorney; and that, in 1946, the latter registered the shares in the name of the claimant pursuant to the applicable Yugoslav regulation requiring the declaration and registration of shares of stock in Yugoslav corporations.

In support of his assertion of such ownership, the claimant has submitted the following documents:

- (a) An affidavit, dated September 16, 1952, by the aforementioned Bjelinski, taken in Rio de Janeiro, Brazil, before the United States Consul. Mr. Bjelinski states that he was the General Manager of the company from 1937 to 1941, when he fled to Italy; that he managed the factory and supervised "the bookkeeping and all financial matters"; and that the claimant "took over all of the liabilities in the years around 1930-32, bought the stock from the stockholders, and as far as I remember, invested -- with the assistance of his wife's family -- money to reorganize the factory." He states that, to his knowledge, "Mr. Paul Neuberger was owner of all the outstanding stock of this corporation, except for 150 shares, 100 of which he had given to his late friend, Duka Kohn, and 50 shares to me."
- (b) An affidavit, dated May 11, 1953, by one Josef Rieder, taken in Dusseldorf, Germany, before the United States Vice-Consul. The affiant states that he was employed by the subject corporation in 1931 as its assistant manager; that he "was responsible for the whole financial management and the books of the firm"; and that the claimant "in the year 1933-34 took over the entire stock of the firm, assuming himself personally a debt of approximately 6,000,000 dinars." He states that, after an unspecified break in such employment, he was again employed by the firm in 1941, and for several years thereafter, as "Adviser Under a Commissary." He concludes that "Because of the above stated facts, I can state under oath that Mr. Paul Neuberger was the owner

of all of the stock, except 150 shares, 100 shares of which were with Mr. Gjuka Kohn and 50 with Mr. Pavle Bjelinski.\*

- (c) An affidavit, dated September 12, 1952, by Dr. Nikola Djuriscic of Belgrade, taken before the United States Vice Consul in Belgrade. Dr. Djuriscic states that he is an attorney, admitted to practice in Yugoslavia, with offices in Belgrade; that he has been a friend of the claimant for more than 20 years; that he handled legal affairs for the claimant in Belgrade, the claimant then being a resident of Zagreb; that he was familiar, through discussion with the claimant, with the transaction whereby the claimant took over the subject company and that "he asked me to become a member of the Board of Directors and to look after his interests in the corporation." He states that he "can confirm that Mr. Paul Neuberger owned 95% of all outstanding stock of the corporation." He also states that when the claimant left for the United States, he gave "2800 shares of the corporation (bearer shares) into my custody; I held them during the war until 1946, when I registered them with the Franco-Serb Bank in Belgrade, according to regulations issued for compulsory registration of all shares of stock.\* (The number of shares here indicated is 2,800 rather than the 2,850 asserted in the claim; 95% of all of the outstanding stock, however, would represent 2,850 shares).

Under date of January 13, 1947, the American Embassy in Belgrade advised the Secretary of State that its inquiries had disclosed that on November 13, 1946, pursuant to the Yugoslav registration law of June 17, 1946, Nikola Djuriscic had deposited with the Jadransko-Podunavska Banka 2,800 shares of the subject company "in the name of the owner of these shares, Dr. Pavle Nojberger." A translation of a letter of acknowledgment to that effect, dated November 13, 1946, from this bank to Dr. Djuriscic was attached to the Embassy's communication.

Upon the basis of the foregoing, the Commission finds it established that, at the date of taking, the claimant was the owner of 95% of the outstanding stock of the corporation and has concluded that an award should be made to him on that basis.

The corporation was engaged and its plant is still utilized in the manufacture of furnaces, radiators and heating appliances for small industrial, commercial and residential buildings and public

installations. It included a foundry, foundry buildings and related repairing and maintenance equipment and various storage sheds. The structures occupy an area of about 3,180 square meters on approximately 14,400 square meters of land, also owned by the company. Representatives of the Commission who recently examined and appraised the plant report that the structures averaged about 18 years in age at the time of taking; and that the machinery and equipment, originally acquired second-hand, were about 30 years old at the time of taking.

Evidently, at the time and for some years after the claimant had acquired ownership of the business, it was virtually insolvent.

Mr. Bjelinski's affidavit, above referred to, recites that the claimant took over the business "around 1930-1932" when the former owners "got into financial difficulties and their liabilities increased over 8 million (dinars, presumably) in the year 1932." Mr. Rieder, in his affidavit, indicates that the claimant took over the business "in the year 1933-1934." He states that the firm "immediately from the start had financial difficulties"; and that Mr. Neuberger took over the business with a view, apparently, to resuscitating it.

The claimant himself states, in his Statement of Claim, that when he acquired ownership the "entire value of the factory was just about that amount" (referring to the debts he had assumed by way of consideration for the transfer to him). He there states that the debts amounted to "about 8 million dinars." However, in a subsequent affidavit filed with the Commission, dated August 19, 1954, he stated he acquired the stock "in 1933 or 1934" and that the consideration for the transfer was "the transfer of a large apartment building" and his assumption of liabilities of "over 6 million dinars."

There seems to be little doubt that, thereafter, the claimant did improve the condition of the business. However, such meager evidence of its value at the date of taking as does exist varies widely.

The claimant himself has placed differing valuations on this property. In his Statement of Claim, he asserts a value of 12 million dinars. However, in an earlier affidavit, dated July 12, 1948, filed by him with the Department of State in support of his claim, he indicates a value, at the time of the affidavit, of only 5 million dinars. In his United States income tax return for the calendar year 1945, the claimant attempted, unsuccessfully, to deduct the loss of his ownership interest as a casualty loss; at that time he valued his interest at \$167,900. At a ratio of 50 dinars to 1 (which claimant has suggested), this would amount to a valuation of 8,395,000 dinars. This item was apparently disallowed as a tax deduction, on the sole ground that the loss, if any, had occurred prior to the tax year involved.

The claimant has not undertaken to submit anything reflecting a physical appraisal of assets as of the time of taking. He has submitted only the following two items which are of any significance: (1) a certified copy of a balance sheet as of December 31, 1939, purportedly filed with the County Court in Zrenjanin, Yugoslavia. (While this appears to be a duly authenticated document, the Commission's investigators were unable to locate any such original document on file). This balance sheet indicates a book value, as of December 31, 1939, of 1,146,000 dinars (considering all reserves, except for depreciation, as equity interest). Among the liability items on this balance sheet is an item described as "long term credit" of 3,777,006.99 dinars. If this item were to be accepted, as the claimant contends, as a reflection, not of a debt, but of investment capital put into the business by him, the book value figure might reasonably be increased by that amount, to 4,923,000 dinars.

The acceptability of this last figure as evidence of actual value, however, is questionable on several grounds:

(a) The profit and loss statement on the same balance sheet shows earnings for 1939 of only approximately 48,000 dinars. Even if this figure were increased by 70,000 to reflect, as earnings, the stated "reserve funds" for taxes and protection against aerial attacks, it is clear that, by reference to earnings, a book value of almost 5 million dinars is unacceptable as any true indication of value. This would continue to be true, even if the interest payment item of 167,953 dinars reflected by this profit and loss statement were added to earnings, on the assumption (for which there is only a conjectural basis) that this interest was all paid on account of the above-mentioned long term credit owing, as asserted, to the claimant personally.

(b) With respect to the major asset item -- machinery and equipment -- which is stated in the balance sheet at a value of approximately 6 million dinars, a physical inspection of these items by the Commission's investigators and their examination of all available records indicated absolutely no basis for evaluating these items at nearly the figure indicated.

(2) The claimant also submitted a completely unauthenticated paper, not filed with any Yugoslav authority, which purports to be a balance sheet as of December 31, 1944. While the Commission would normally completely disregard any such document, it has nevertheless, in view of the sparseness of other evidence, taken it into consideration.

While this balance sheet, assuming its accuracy, would reflect some improvement over 1939, such improvement would not be sufficiently great to justify the adoption of this statement as a significant indication of true value. The important machinery and equipment item is almost identical with that reflected by the 1939 balance sheet. The

accounts receivable figure is about 2 million dinars above that for 1939; and the same may be said for the raw materials and finished products item. The two latter items make up substantially all of the increase, on the total asset side, over the 1939 statement. The liabilities are stated in the most general terms and thus can throw no significant light on true value. Perhaps most significantly, gross profits for the year 1944, as reflected by this statement, are indicated at approximately the same amount as the corresponding figure for 1939.

The Government of Yugoslavia has not submitted any report of such evaluation as it may have made. However, it may be noted that, in the decree of confiscation referred to above, it is recited that "the book entries up to November 31, 1946," shortly before the time of taking, indicate assets of 14,517,386 dinars as against liabilities of 14,260,767. No itemized breakdown of any kind is given; nor does any physical appraisal of the assets appear to have been made at that time.

The figures last recited would indicate, prima facie, an insolvent condition as of the time of taking. Presumably, the total liabilities figure included the above-mentioned long term credit (or capital account) of the claimant which, it is recognized, may be urged as an equity item.

This credit item, although stated to be 3,777,006 dinars as of 1939, had apparently been reduced to about 2,300,000 dinars by March 1941, according to a statement in that regard in the claimant's above-mentioned affidavit submitted to the Department of State. It would appear, therefore, that, even if this item were accepted, in full, as an item of equity interest, and even if it were assumed that it was not further reduced between 1941 and 1946, total book value reflected by the entries examined by the Yugoslav court in the confiscation proceedings would not exceed approximately 2,500,000 dinars. And, in any event, as already indicated, a book value basis for evaluation here



would appear to be quite unrealistic.

Qualified investigators of the Commission have visited the plant and made a complete inspection of all of its assets and of all available records relating to its assets as they existed in 1946. Upon the basis of this inspection, they have concluded that the following valuations in dinars (based upon 1938 values) would be reasonable:

	<u>Dinars</u>																																										
(A.) Buildings and Structures	956,000																																										
These include:																																											
	<table border="0" style="margin-left: 40px;"> <thead> <tr> <th></th> <th style="text-align: right;"><u>Area</u> <u>(Sq. Meters)</u></th> <th style="text-align: right;"><u>Net Value</u></th> </tr> </thead> <tbody> <tr> <td>Building, Large Foundry</td> <td style="text-align: right;">819</td> <td style="text-align: right;">156,000</td> </tr> <tr> <td>Building, Small Foundry</td> <td style="text-align: right;">712</td> <td style="text-align: right;">185,000</td> </tr> <tr> <td>Store room and Tool room</td> <td style="text-align: right;">86</td> <td style="text-align: right;">22,000</td> </tr> <tr> <td>Main Repair Shop</td> <td style="text-align: right;">930</td> <td style="text-align: right;">296,000</td> </tr> <tr> <td>Furnace Room for Ventilators</td> <td style="text-align: right;">75</td> <td style="text-align: right;">28,000</td> </tr> <tr> <td>Wood Shed</td> <td style="text-align: right;">88</td> <td style="text-align: right;">10,000</td> </tr> <tr> <td>Office Building</td> <td style="text-align: right;">316</td> <td style="text-align: right;">209,000</td> </tr> <tr> <td>Drying Room</td> <td style="text-align: right;">25</td> <td style="text-align: right;">4,000</td> </tr> <tr> <td>Guard House</td> <td style="text-align: right;">10</td> <td style="text-align: right;">4,000</td> </tr> <tr> <td>Cellar</td> <td style="text-align: right;">94</td> <td style="text-align: right;">21,000</td> </tr> <tr> <td>Scales</td> <td style="text-align: right;">8</td> <td style="text-align: right;">15,000</td> </tr> <tr> <td>Pool (water)</td> <td style="text-align: right;"><u>17</u></td> <td style="text-align: right;"><u>6,000</u></td> </tr> <tr> <td style="text-align: right;">Total</td> <td style="text-align: right;">3,180</td> <td style="text-align: right;">956,000</td> </tr> </tbody> </table>		<u>Area</u> <u>(Sq. Meters)</u>	<u>Net Value</u>	Building, Large Foundry	819	156,000	Building, Small Foundry	712	185,000	Store room and Tool room	86	22,000	Main Repair Shop	930	296,000	Furnace Room for Ventilators	75	28,000	Wood Shed	88	10,000	Office Building	316	209,000	Drying Room	25	4,000	Guard House	10	4,000	Cellar	94	21,000	Scales	8	15,000	Pool (water)	<u>17</u>	<u>6,000</u>	Total	3,180	956,000
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(C.) Machinery & Equipment	463,000																																										
(D.) Inventory (including finished goods)	671,000																																										
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No significant operating statements or earnings records were found by the Commission's investigators. The only records of earnings available to the Commission are those above referred to. For the reasons already indicated, such records do not appear to justify increasing the above-stated net value figure of 2,410,000. The Commission's appraisers have recommended that an award should be based upon a valuation not in excess of approximately 2,400,000 dinars.

The Commission is of the opinion, on the basis of all evidence and data before it, that the fair and reasonable value of the property in question was 2,410,000 dinars as of the year 1938.\* That amount converted into dollars at the rate of 44 dinars to 1 dollar, the rate adopted by the Commission in making awards based upon 1938 valuations, equals \$54,772.73.\*

AWARD

It having been established that the claimant had a 95% ownership interest in the business, this claim is allowed and an award is hereby made to Paul Neuberger, claimant, in the amount of \$52,034.09, with interest thereon at 6% per annum from December 16, 1946, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of \$5,243.32.\*

Dated at Washington, D. C.

OCT 12 1954

\* For the Commission's reasons for use of 1938 valuations, use of exchange rate of 44 to 1, and the allowance of interest, see attached copy of its decision in the claim of Joseph Senser.