

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

In the Matter of the Claim of

GEORGE H. SCHELLENS
10 Rue Auber
Paris, France

Docket No. Y-493

Decision No. 1306

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

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9/27/54

PROPOSED DECISION OF THE COMMISSION

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Sep 24, 1954*

This is a claim for \$97,361.29 plus interest by George H. Schellens, a citizen of the United States since his birth on January 3, 1894, at Baltimore, Maryland, and is for the taking by Yugoslavia of: (1) office furniture and equipment owned by the firm "Rudalat," in which claimant was allegedly the sole beneficial owner; (2) a collection of ore samples, records, statements, reports and geological maps assembled by various mining specialists; (3) a credit with the National Bank of Yugoslavia for the account of "Rudalat" in Belgrade; (4) certain invoices evidencing a delivery in 1940 of various drills and spare parts by "Rudalat" to the Yugoslav Government; (5) 5,000 tons of sintered pyrites; (6) loss of profits which would have been realized had not the puppet Serbian or puppet Croatian Government taken 50,000 tons of sintered pyrites which claimant had an option to purchase; (7) loss of profits which would have been realized had not the puppet Serbian Government taken, in 1941, 1,580 tons of claimant's copper sulphate and delivered it to Bulgarian buyers with whom claimant had a contract to sell.

Claimant alleges in item (1) above that he was the sole beneficial owner of the firm "Rudalat," and that the Government of Yugoslavia has taken the following items of office furniture and

J.A. Kuistek

equipment owned by that firm: 1 iron plated safe of "Langhammer" trademark, 2 larger safes of the small type (cash boxes), 1 small safe (cash box), 1 "Dalton" calculating machine, 1 "Royal" typewriter number H-92-1872241, 1 "Royal" typewriter number X-54-1267, 1 "Adler" typewriter number 513206, a telephone installation consisting of 5 "Erickson" sets 5 by 2, 1 intermediate set, 1 accumulator and 1 transformer; 2 brown desks with a glass cover, 1 oak bench opening into a case, 3 yellow desks (second hand), 4 yellow chairs (second hand), 4 soft brown chairs upholstered with oilcloth, 2 soft chairs upholstered with fabric, 3 cabinets (showcases with glass), 2 small cabinets with open drawers, 1 large yellow showcase, 1 round telephone table, 2 black typewriter tables, 1 yellow typewriter table, 1 cabinet with drawers for plans, 1 ordinary black cabinet, 2 black enclosed bookcases, 2 portable lamps with a reflector, 5 lusters, 2 dark brown desks, 2 chairs with leather upholstering, 1 office furniture set consisting of a table, 2 chairs and a sofa; 2 desks with drawers, 1 chair, 1 roll-top desk for typewriter, 1 small table, 1 cabinet for catalogues, 1 cabinet with a double door (large), 3 stools, 1 cabinet for letters with a double roll door, 2 hanging lamps, 1 small luster for ante-room, 2 desk lamps, 1 wall bracket lamp with extendable support, 1 ordinary chair, 3 waste paper baskets, 1 clothes hanger, 1 coal bin, 1 scales for weighing letters, 2 "Underwood" typewriters, 1 punching machine, 1 pencil sharpener, 1 stand for seals, 4 letter boxes, 1 bookkeeping "Ruff" cabinet, 2 carpets, 1 steel "Remington-Rand" cabinet with 4 drawers, 2 "Kardex" steel small cabinets with respectively 15 and 8 drawers, 1 desk in the storage. Although the Commercial Registry at Belgrade shows that Igor Yacenko was the registered owner of that firm, claimant has filed some evidence indicating his ownership thereof. Claimant states that the above furniture and equipment was confiscated

and taken away by order of "Komanda Grada Beograda Stanbeni Otsek" on October 31, 1944. Claimant has not filed a copy of that order. However, disregarding that fact, the Yugoslav Ministry of Foreign Affairs in a note No. 6110/46 dated June 5, 1946, stated that the Public Prosecutor of the City of Belgrade "opened a judicial inquiry against Igor Yacenko because of his economic collaboration with the occupators." That Ministry further states that the sequestered goods were taken as property of Igor Yacenko and placed into the custody of "Julka Jankovic and Zagovka Stojanovic" pending the outcome of Mr. Yacenko's trial; and that in the event Mr. Yacenko was convicted, only his property would be taken; and "George Schellens may, if he wants to prove his ownership on goods at present under sequestration as property of Igor Jacenko, either personally or through his legal representative, approach the Court/Sreski Sud/of the II town-ward/Reon/of Belgrade and file an action for the elimination of the goods in question, corroborating it with necessary evidence. If George Schellens does this and proves his ownership, the goods will be restituted to him." The record shows that the County Court for the Second Precinct of the City of Belgrade by Decree No. I. be 400/46 of January 29, 1947, repealed the sequestration of the personal property of Eng. Jacenko Igor.

Investigators for this Commission and the Government of Yugoslavia report that ". . . on the basis of the order of the People's Municipal Committee of the City of Belgrade - Executive Committee - General Department - Legal Section No. 2617 of January 25, 1948, . . . Jankovic Julka of Belgrade surrendered in her residence to the legal representative of "Rudalat" Company, Subovic Vera of Belgrade the following movable . . . property: black office bookcase (6 drawers), office bookcase (double, of hardwood), 2

chandeliers, hand cancelling perforator, desk lamp, bookcase (black with shelves), beech double bookcase (with a mirror), small wooden table; standard wicker-chair, shelf, 2 metal drawers, 2 bottles for gas, small round beech table, 2 lamps with 1 bulb, costumer, box for coal, shelf (brown), green lamp (1 bulb), 2 upholstered chairs, 2 arm-chairs, 3 office filing cases (black), an old bookcase, mortar, an old ottoman, 5 framed pictures, white cabinet with old household utensils, various old household utensils. The document filed by the Government of Yugoslavia shows that Vera Subovic acknowledged the receipt of the above property.

Claimant also states that the collection of ore samples, records, statements, reports and geological maps assembled by various mining specialists were also taken on October 31, 1944, pursuant to the order of the "Komanda Grada Beograda Stanbeni Otsek." However, the record shows that those items were taken under the same circumstances as the office furniture and equipment of "Rudalat" as stated above, and that after the trial of Igor Jacenko, the custodian of that property, Julka Jankovic, returned the property to Vera Subovic. The Government of Yugoslavia filed a statement showing that Vera Subovic acknowledged the receipt of the following items of personal property: 4 drawers containing several empty bottles for chemicals, remaining old files, remaining collection of ore, remaining household utensils, remaining office stamps (seals), remaining office curtains, 2 tubes for laboratory use, electrical heater for laboratory, faucet for laboratory, 2 stoppers, 8 spares for electrical heater (4 asbestos plates and 4 spares for heaters), a gas kitchen-range, a kitchen-range.

In view of the foregoing, it is apparent to this Commission that the Government of Yugoslavia did not take any of the personal property listed in items (1) and (2) of the claim. Accordingly, the claim therefor is denied.

Claimant further states that on March 13, 1941, he deposited \$1,123.95 with the Federal Reserve Bank of New York to the credit of the National Bank of Yugoslavia for the account of "Rudalat;" that the amount was never paid to "Rudalat," and that it was taken by the Government of Yugoslavia. No evidence was filed showing that the amount was taken by the Government of Yugoslavia. On the contrary, the claimant has filed a letter showing that as of May 11, 1942, the National Bank of Yugoslavia never received that amount. The Government of Yugoslavia denies the taking or nationalization of the deposit. This Commission's investigator could find no evidence as to the above transactions. The burden of establishing a claim before this Commission rests upon the claimant. We hold that the claimant has not met that burden with respect to the deposit.

Claimant also asks compensation in the amount of \$680 for the taking or destruction by the Government of Yugoslavia of various invoices which destruction or disappearance has allegedly deprived him of the means of establishing a debt owed him by the Yugoslav Government for the delivery of various drills and spare parts to the Yugoslav Ministry of War in 1940. However, claimant has filed no evidence of ownership or the taking or destruction thereof. Investigators from this Commission and the Government of Yugoslavia reported that they were unable to obtain any evidence or information with regard thereto. Without determining whether or not the taking of such invoices comes within Article 1 of the Yugoslav Claims Agreement of 1948, the claim therefor is denied because the claimant has not sustained the burden of proving his ownership of the invoices and the taking thereof by the Government of Yugoslavia.

The remaining part of this claim relates to the taking of 5,000 tons of sintered pyrites by the puppet Serbian or puppet

Croatian Government and loss of profits which claimant would have realized had not the puppet Serbian or puppet Croatian Government taken 50,000 tons of sintered pyrites which claimant had an option to purchase and 1,580 tons of claimant's copper sulphate and delivered it to Bulgarian buyers with whom claimant had a contract to sell. The Agreement of July 19, 1948, between the Governments of the United States and Yugoslavia settled "all claims of nationals of the United States" for the "nationalization or other taking by Yugoslavia of property" (Article 1).

We have heretofor held that the present Yugoslav Government is not impressed with responsibility for the takings of property by a "puppet state" or local de facto government such as Serbia and Croatia, and that the Agreement of July 19, 1948 between the Governments of the United States and Yugoslavia did not include such takings, nor did either Government intend that it should do so (in re claim of Socony-Vacuum Oil Company, Inc., Docket No. Y-304, Decision No. 993).*

For the foregoing reasons, this claim is denied in its entirety.

Dated at Washington, D. C.
SEP 27 1954

* A copy of this decision, No. 993, is annexed.

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FINAL DECISION

Thirty days, or such extended time as may have been granted by the Commission, having elapsed since the Claimant(s) herein and the Government of Yugoslavia were notified of the Proposed Decision of the Commission on the above Claim, and no objections thereto or notice of intention to file brief or request for hearing having been filed, or, if filed, no further evidence or other representations having been offered pursuant to the opportunity duly afforded therefor, such Proposed Decision is hereby adopted as the Commission's final decision on this Claim.

Done at Washington, D. C. NOV 17 1954

J. A. Kinalek