

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

IN THE MATTER OF THE CLAIM OF

MAXIMILIAN KLEIN
98 - 25 65th Road
Forest Hills, New York

ALFRED KLEIN
88 - 35 Elmhurst Avenue
Elmhurst 73, New York

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CZ-2,232

Claim No. CZ-2,233

Decision No. CZ- 3284

Counsel for Claimants:

Reiner & Orens
19 Rector Street
New York 6, New York

PROPOSED DECISION

These claims, in the aggregate amount of \$101,758.14, are asserted against the Government of Czechoslovakia pursuant to the provisions of Section 404, Title IV, of the International Claims Settlement Act of 1949, as amended, by MAXIMILIAN KLEIN and his brother, ALFRED KLEIN, nationals of the United States since July 9, 1946, and January 21, 1947, respectively. The claims are based on the asserted nationalization or other taking of real property located at Jablonec nad/Nisou (Gablonz a/N), Czechoslovakia), in which claimants had respective one-half ownership interests. Further, claims are also based on the loss of certain personal property, including insurance policies, bank accounts, stocks in Czechoslovakian corporations and Skoda Bonds (130), all stated to have been nationalized or otherwise taken by the Czechoslovakian Government.

Section 404 of the Act provides, inter alia, for the determination by the Commission, in accordance with applicable substantive law, including international law, of the validity and amount of claims by United States nationals against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property, including any rights or interests therein,

owned at the time of loss by nationals of the United States.

Section 405 of the Act provides as follows:

A claim under Section 404 of this title shall not be allowed unless the property upon which the claim is based was owned by a national of the United States on the date of nationalization or other taking thereof and unless the claim has been held by a national of the United States continuously thereafter until the date of filing with the Commission.

Claim has been asserted herein by claimant MAXIMILIAN KLEIN for loss of certain stock interests in Ascher Faerbereien and the Zivnostenska Banka. Additionally, claimant ALFRED KLEIN has asserted a claim for loss of his stock interests in Banska a Hutni Spolecnost, a/k/a Berg-und Huettenwerk Gesellschaft, and Aktien Kosmanos. Claimants have alleged that when the aforesaid corporations were nationalized by the Government of Czechoslovakia in 1945, compensation was promised; that the promise of compensation was withdrawn following the "Communist Putsch" in February 1948; and that claimants' losses date back to 1948 or 1949.

By Decrees No. 100/45 Sb., No. 101/45 Sb., and No. 102/45 Sb., all effective October 27, 1945, the Government of Czechoslovakia nationalized certain corporations and/or their assets. The Commission finds that the aforementioned corporations came within the purview of said decrees and that claims by stockholders of such corporations against the Government of Czechoslovakia based on the nationalization arose on October 27, 1945. 1/ Since the subject stock interests described herein were owned by claimants who were non-nationals of the United States on October 27, 1945, these portions of the claims must be and hereby are denied. (See Section 405 of the Act, supra.)

The record herein establishes that bank accounts were maintained in "old currency" at the Ceska Banka Union, in liquidation, (Bohemian Union Bank), in the amount of 138,957 crowns, and at the Zivnostenska Banka in the amount of 16,902 crowns; and that both accounts were carried under the name of ALFRED KLEIN. In addition, the record discloses

1/ See Decision No. CZ-1,022, Claim Nos. CZ-4,113 and CZ-4,123 (MARY and PAUL DAYTON).

that insurance policies were issued by the Riunione Adriatica di Sicurta and Star of Prague on the lives of claimants herein; that the total value of the policies (3) on MAXIMILIAN KLEIN was in the amount of 101,600 crowns and the total value of the policies (2) on ALFRED KLEIN was in the amount of 90,400 crowns.

A study of the history of events with respect to bank accounts and proceeds arising from life insurance policies in Czechoslovakia reveals that under Law 41/53 Sb., effective June 1, 1953, those bank accounts which were made in "old currency" on or prior to November 15, 1945, and accounts into which were deposited the proceeds from life insurance policies pursuant to Law No. 141/47 Sb., were annulled by the Government of Czechoslovakia.

The Commission finds that the right of claimants to payment of their respective interests in the aforesaid bank accounts and proceeds of life insurance policies was property within the meaning of Section 401(1) of the Act which defines property as "any property, right or interest"; and the Commission further finds that this right to payment was taken by the Government of Czechoslovakia without compensation on June 1, 1953, by virtue of Section 7 of Law No. 41/53 Sb., which cancelled the rights of claimants. Thus, the Commission finds that claimants are entitled to awards under Section 404 of the Act for loss of their respective interests in the bank accounts and insurance policies at the official currency conversion rate of 50 Czech crowns to \$1.00.

The Commission also finds it established that ALFRED KLEIN was the owner of One Hundred Thirty (130) bonds of the Akciova Spolecnost Drive Skodovy Zavody v Plzni (Skoda Works), each having a face value of 10 pounds sterling; that the entire issue of the said bonds was secured by mortgage on the property of the corporation; and that the said corporation was nationalized by the Government of Czechoslovakia pursuant to Decree 100/45 Sb., effective October 27, 1945.

A study of the laws which were in effect in Czechoslovakia with respect to mortgages reveals that pursuant to Law No. 103/1950 Sb.,

effective July 1, 1950, mortgages on property nationalized by the Government of Czechoslovakia were cancelled. The Commission finds that the cancellation of the mortgages amounted to a taking without compensation of the security of the bond holders and such loss arose on July 1, 1950; and that the value of each bond having a face value of 10 pounds sterling was \$28.00, converted at the exchange rate of \$2.80 per pound prevailing at the time that the security was taken. Thus, the value of ALFRED KLEIN'S interest in the security taken by the Government of Czechoslovakia, represented by his ownership of the aforesaid 130 bonds, was \$3,640.00. Accordingly, the Commission concludes that ALFRED KLEIN is entitled to compensation in this amount, as provided by Section 404 of the Act.

The Commission finds from the evidence of record that the claimants herein, MAXIMILIAN KLEIN and ALFRED KLEIN, were the owners of respective one-half interests in real property recorded in Liber 2478, Lots 1495 and 1444/2, with building lot, house No. 1587, with garden, located at #69 Gebirgsstrasse, Jablonec nad/Nisou, Czechoslovakia; and that said claimants were also the owners of respective one-half interests in real property recorded under Liber 4946, Lots 3159 and 418/8, building lot, house No. 2165 and field, located at #2 Buchengasse, Jablonec nad/Nisou. The record, including Decrees of the District Court in Jablonec nad/Nisou dated October 31, 1951, discloses that the above described real property was seized by the German occupying authorities during World War II, and that upon the termination of the war said property was taken over by the Czech government and placed under national administration.

The evidence discloses that HANUS ZECKENDORF, Attorney at Law, petitioned the County Court and County National Committee at Liberec, Czechoslovakia, for restitution of the property for claimants, as provided under Decree No. 128/46 Sb. In this action, the County Court made the determination that restitution of the property was denied. The decision of the County Court, dated March 29, 1951, was affirmed by the District Court in Jablonec nad/Nisou on October 31, 1951. Thus, the Commission finds that the above described real property was taken by the Government

of Czechoslovakia without compensation on March 29, 1951.

In arriving at the value of the subject property, the Commission considered all of the evidence submitted by claimants, including pictures (3) of the property, statements of claimants with respect to purchase price of land, cost of construction, and outstanding mortgage on the Buchengasse property, as well as data concerning the size and type of the structures on the land in question. The Commission has also considered the results of its independent investigation with respect to the subject property and similar property in Czechoslovakia. Based on the entire record, the Commission finds that the value of the aforesaid property on Gebirgsstrasse when taken by the Government of Czechoslovakia was \$13,500.00, and that the value of the claimants' net equity in the Buchengasse property when taken was \$15,000.00; and concludes that claimants are entitled to awards under Section 404 of the Act in amounts commensurate with their respective one-half interests in the subject property.

Based upon the record herein the Commission finds that claimants are entitled to awards for their losses, as described hereinafter, with interest from the respective dates of taking to August 8, 1958, the date of enactment of Title IV of the Act.

RECAPITULATION

<u>Items</u>	<u>Maximilian Klein</u>	<u>Alfred Klein</u>
Bank Accounts	- --	\$ 3,117.18
Interest		969.97
Insurance Policies	\$ 2,032.00	1,808.00
Interest	632.30	562.60
Skoda Bonds	- --	3,640.00
Interest		1,769.66
Gebirgsstrasse (Real Property)	6,750.00	6,750.00
Interest	2,980.13	2,980.13
Buchengasse (Real Property)	7,500.00	7,500.00
Interest	<u>3,311.25</u>	<u>3,311.25</u>
T O T A L S	\$ 23,205.68	\$ 32,408.79

A portion of the claims is based upon the asserted loss of rental

from the above described real property since 1951. It has not been established that any rental belonging to the claimants was taken by the Government of Czechoslovakia prior to March 29, 1951. A claim for loss of rental for the period subsequent to that date is not compensable inasmuch as the property belonged to the Czechoslovakian State after the date of taking. On the other hand, interest from the date of taking to August 8, 1958, the date of enactment of Title IV of the Act is being allowed herein at the rate of 6% per annum, as discussed hereinabove.

The Commission deems it unnecessary to make determinations with respect to other elements of the portions of the claims herein which were denied.

A W A R D S

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to MAXIMILIAN KLEIN in the principal amount of Sixteen Thousand Two Hundred Eighty-Two Dollars (\$16,282.00), plus interest thereon at the rate of 6% per annum from the respective dates of taking to August 8, 1958, the effective date of Title IV of the Act, in the amount of Six Thousand Nine Hundred Twenty-Three Dollars and Sixty-Eight Cents (\$6,923.68), for a total award in the amount of Twenty-Three Thousand Two Hundred Five Dollars and Sixty-Eight Cents (\$23,205.68);

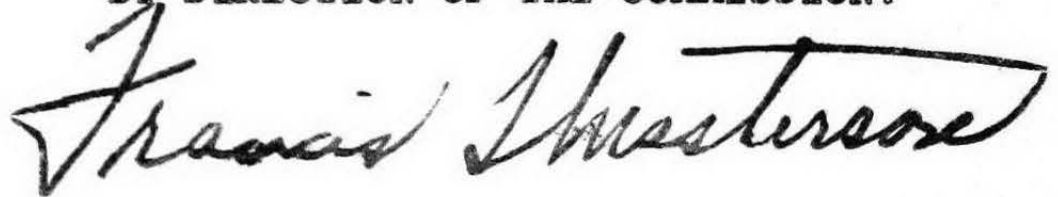
and an award is hereby made to ALFRED KLEIN in the principal amount of Twenty-Two Thousand Eight Hundred Fifteen Dollars and Eighteen Cents (\$22,815.18), plus interest thereon at the rate of 6% per annum from the respective dates of taking to August 8, 1958, the effective date of

Title IV of the Act, in the amount of Nine Thousand Five Hundred Ninety-Three Dollars and Sixty-One Cents (\$9,593.61), for a total award in the amount of Thirty-Two Thousand Four Hundred Eight Dollars and Seventy-Nine Cents (\$32,408.79).

Dated at Washington, D. C.

APR 18 1962

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script, reading "Francis T. Masterson". The signature is written in dark ink and is positioned above a horizontal line.

Francis T. Masterson
Clerk of the Commission

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and an award is hereby made to ALFRED KLEIN in the principal amount of Twenty-Two Thousand Eight Hundred Fifteen Dollars and Eighteen Cents (\$22,815.18), plus interest thereon at the rate of 6% per annum from the respective dates of taking to August 8, 1958, the effective date of

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Dated at Washington, D. C.

APR 18 1962

BY DIRECTION OF THE COMMISSION:



Francis T. Masterson
Clerk of the Commission

THIS DECISION WAS ENTERED AS THE COMMISSION'S
FINAL DECISION ON MAY 23 1962



Clerk of the Commission