

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

IN THE MATTER OF THE CLAIM OF

EDITH DURAND, Executrix of the  
ESTATE of MARIE ELBOGEN-LOCKETT, Dec'd  
88 Marlborough Street  
Boston 16, Massachusetts

Claim No. CZ-4,419

Decision No. CZ-3461

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for Claimant:

REINER & ORENS  
19 Rector Street  
New York 6, New York

FINAL DECISION

The Commission on June 20, 1962 issued its Proposed Decision No. CZ-3461 on this claim granting claimant an award in the principal amount of \$552,369.68 plus interest in the sum of \$250,696.30.

Claimant through her attorneys filed objections to the Proposed Decision and requested a hearing which was scheduled for August 17, 1962. Subsequently, claimant's attorneys withdrew these objections and the request for a hearing.

In view of the foregoing, it is

ORDERED that the Proposed Decision No. CZ-3461 of June 20, 1962 be and the same is entered as the Final Decision on this claim; and it is further

ORDERED that the award granted in the aforesaid decision be certified for payment to the Secretary of the Treasury.

Dated at Washington, D. C.

AUG 23 1962

Edward S. Telle  
Theodore Joffe  
LaVern R. Dilweg  
COMMISSIONERS

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

IN THE MATTER OF THE CLAIM OF

EDITH DURAND, Executrix of the  
ESTATE of MARIE ELBOGEN-LOCKETT, Dec'd  
88 Marlborough Street  
Boston 16, Massachusetts

Claim No. CZ-4,419

Decision No. CZ- 3461

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for Claimant:

REINER & ORENS  
19 Rector Street  
New York 6, New York

PROPOSED DECISION

This is a claim in the amount of \$3,330,418.95 against the Government of Czechoslovakia under Section 404 of Title IV of the International Claims Settlement Act of 1949, as amended, by EDITH DURAND, Executrix of the ESTATE of MARIE ELBOGEN-LOCKETT, deceased. The decedent was a national of the United States from July 11, 1946, the date of her naturalization, until March 26, 1956, the date of her death.

The claim is based upon the nationalization or other taking of the following property:

- I. A mansion situated at No. 14 Pelleova Street, Prague-Bubenec;
- II. Two (2) houses, Nos. 989 and 990, located at Havlicek Square and Senovazna Street in Prague - New City;
- III. A fifty percent (50%) interest in the Aussig Shipyards and Lumber Industry Company in Usti nad Labe;
- IV. 4,750 Shares of stock of Pecek Sugar Refining Company in Prague;
- V. Loan granted to Pecek Sugar Refining Company;
- VI. Various securities on deposit with banks;



- VII. Cash in banks and proceeds from life insurance policies; and
- VIII. Personal property consisting of objects of art, paintings, sculptures and furnishings.

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 nationals of the United States 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 by nationals of the United States.

I. Mansion Situated in Prague-Bubenec

The Commission finds that MARIE ELBOGEN-LOCKETT, deceased, was the owner of real property recorded in Liber No. 13 of the Cadastral District of Prague-Bubenec, described as parcels Nos. 20, 22/1 and 22/2, consisting of a three-story mansion in Prague with adjoining gardens and parks. The record shows that during World War II this building was confiscated by the German authorities then in control of Prague; that after the war the house was placed under national administration; that the decedent instituted proceedings for restitution of the property; however, restitution was denied and by decision of the District People's Committee of Prague, No. 193/1-21/III/56 of May 23, 1951, this property and all other property of the deceased was confiscated.

Claimant furnished a detailed description of the mansion, a plan, photographs of the building and an estimate dated in June 1960, prepared by one Victor Fuerth, who states that the property had a prewar value of approximately 8,000,000 Czech crowns. However, the Commission's independent investigation indicates that the value of the property was considerably lower.

On the basis of all the evidence of record, the Commission concludes that the value of the mansion at the time of taking was \$91,500.

II. Houses at Havlicek Square in Prague

The Commission finds the deceased owned real property recorded in Liber Nos. 989 and 990 of the Cadastral District of Prague - New City, described as parcels Nos. 1389 (new No. 526) and 1390, consisting of improved land with two buildings located on Havlicek Square at Senovazna Street in the business center of the City of Prague. The record shows that these two buildings were likewise confiscated by the Government of Czechoslovakia on May 23, 1951.

Claimant submitted photographs of the buildings, a statement dated September 14, 1960 from Dr. Friedrich Gerson, an attorney at law formerly practicing in Prague, to the effect that the houses were in the vicinity of his office in Prague; that he estimates the annual gross rental income of each house to have been 500,000 to 600,000 Czech crowns; and that the prewar value of each of the two houses was 7,500,000 to 8,000,000 crowns. Claimant also submitted a statement dated March 2, 1962 from Wilhelm J. Foehr, an architect of Vienna, Austria, to the effect that the values of the two houses as of January 1, 1938 were 7,637,000 and 7,110,000 crowns, respectively. The Commission's independent investigation tends to show that the values of the two buildings at the time of confiscation were much lower.

On the basis of the entire record, the Commission concludes that the aggregate value of the two houses on Havlicek Square at the time of confiscation was \$342,000.00.

III. Fifty Percent Interest in Aussig Shipyards

The Commission finds that the deceased owned a 50% interest in the Aussig Shipyards and Lumber Industry Company of Usti nad Labem.



The company was engaged in the business of building tugboats and passenger ships for the traffic on the river Elbe (Labe), and also repaired ships in its docks.

Claimant submitted a statement of the former manager of the shipyards, Josef Winternitz Williams, dated September 8, 1958, in Vienna, Austria, and statements of other witnesses who had knowledge of the business, which indicate that in 1933 Friedrich Elbogen, Marie Elbogen's predeceased husband, loaned to the shipyards approximately 1,000,000 Czech crowns and, as consideration, he received a 50% share in the company. Upon the death of Friedrich Elbogen in 1934, his wife, Marie, inherited his interest.

It appears that the company was successful and employed an average of 400 workers. In 1938, after the occupation of Aussig by Germany, the company was confiscated and later turned over to two former employees and a person of ethnic German nationality. During World War II the business was conducted by these three people, but after the liberation of Czechoslovakia, the enterprise was placed under national administration. The record shows that pursuant to the Announcement of the Ministry of Industry, No. 1254, the company was nationalized under Law No. 114/48, effective as of January 1, 1948.

Claimant has failed to submit convincing evidence to substantiate that the value of a one-half interest in the company was \$322,000, as alleged. However, the former manager, Josef Winternitz Williams, states that after the occupation of Aussig by Germany, the two former employees who were conducting the business made an offer to buy the company for 2,600,000 crowns payable in three installments. It appears that negotiations were under way for the sale of the company under these terms but that the German authorities interfered and prevented the sale. Mr. Williams states that the business had a much higher value, but nothing in the record supports this opinion.

Upon consideration of the entire record, the Commission concludes that the company had, prior to World War II, a value of 2,600,000 Czech crowns, or, converted at the exchange rate of \$0.0342 for 1 crown prevailing in 1939, the sum of \$88,920.00. Accordingly, the Commission finds that the value of a one-half interest in this company was \$44,460.

#### IV. Pecek Sugar Refining Company

Evidence has been submitted that MARIE ELBOGEN-LOCKETT owned 4,750 shares of stock of the Pecek Sugar Refining Company in Prague. This part of the claim is predicated on the nationalization of that company. The records of the Commission show that the Pecek Sugar Refining Company was nationalized by the Government of Czechoslovakia on October 27, 1945 pursuant to Decree No. 101/1945. (The Decree of Nationalization was published in the Official Gazette of Czechoslovakia, No. 5 of January 12, 1946, on page 33.) <sup>1/</sup>

As stated above, MARIE ELBOGEN-LOCKETT became a citizen of the United States by naturalization on July 11, 1946.

Section 405 of the Act provides:

"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."

Since the owner of the 4,750 shares of Pecek stock was not a national of the United States on the date of nationalization of the corporation, this part of the claim is not compensable under the Act and it is hereby denied.

#### V. Loan Granted to Pecek Sugar Refining Company

The Commission finds that the deceased had a debt claim against the Pecek Sugar Refining Company in the amount of 1,910,133.90 crowns;

<sup>1/</sup> Uredni List.



the Pecek Company, however, had a counterclaim of 75,000 crowns. It, therefore, appears that the net balance of the claim was 1,835,133.90 crowns.

The Commission has held that ordinary unsecured debt claims are not compensable under the Act, unless the evidence before the Commission indicates that the debt claim was abolished, annulled, or confiscated by affirmative action of the Government of Czechoslovakia.<sup>2/</sup>

In the instant claim the Commission finds that by the above-recited Decision of the District People's Committee of Prague, No. 193/1-21/III/56 of May 23, 1951, all the property owned by the deceased was confiscated and that such confiscation included the debt claim from the Pecek Sugar Refining Company in the amount of 1,835,133.90 crowns, or, converted at the rate of exchange of \$0.02 per 1 crown prevailing at that time, the amount of \$36,702.68.

#### VI. Shares of Stocks and Bonds

Claimant states that the late MARIE ELBOGEN-LOCKETT owned prior to World War II shares of stocks and bonds of Czechoslovakian corporations in the approximate amount of 20,692,729 crowns. However, records before the Commission dating from the year 1946 and subsequent years reveal that the major part of her stocks and bonds were seized and disposed of by German authorities during World War II with the exception of the following Czechoslovakian securities which were still on deposit in her favor:

##### At the Bohemian Union Bank in Prague:

- × RM <sup>should be 6,000</sup> 46,000 Sudetenlaendische Bergbau Company (Sudeten Land Mining Company)
- × 20 Shares Westboehmische Kaolin Company
- ✓ 150 Shares Deli Chocolate Company
- × 15 Shares EPIAG Company (First Bohemian Porcelain Industry)
- × 7 Shares Agrarian Sugar Mills Uhrineves
- 3% Defense Loan Bonds - par value Kc. 359,000.

<sup>2/</sup> See In the Matter of the Claim of Skins Trading Company, Claim No. CZ-3,978, Decision No. CZ-734.

At the Bohemian Escompte Bank in Prague:

- ✓ 550 Shares Schindler & Stein Malt Factories
- ✗ 40 Shares Jungbunzlauer Spiritus (Alcohol) Company
- 100 Shares Prague-Dux Railway Co.
- ✓ 1050 3% "STEG" Priority Bonds
- ✓ L 1,300 "SKODA" Works Bonds
- ✗ 9 Shares Krusovice Sugar Company
- ✗ 25 Shares Autodopravni (Automobile Transit) Company of Prague

At the Credit Institute in Prague:

6% Mortgage Bank Certificates - par value	Kc. 60,000.
5% Mortgage Bank Certificates - par value	Kc. 50,000.

At the Postal Savings Bank in Prague:

- ✓ 50 - 3% "STEG" Priority Bonds

The Commission's records disclose that the following corporations were nationalized on October 27, 1945 pursuant to Decrees No. 100/45 and 101/45, respectively.

Sudetenlaendische Bergbau (Mining) Company  
West Bohemian Kaolin Company  
First Bohemian Porcelain Industry (EPIAG)  
Agrarian Sugar Mills of Uhrineves  
Jungbunzlauer (Mlada Boleslav) Alcohol Company  
Krusovice Sugar Company  
Automobile Transit Company of Prague

Since the owner of the above-described shares of stock was not a national of the United States on the date of nationalization of the aforesaid corporations, the portion of the claim relating to the above corporations is hereby denied.

On the other hand, the Commission finds that the Schindler & Stein Malt Manufacturing Corporation of Brno and "DELI" Chocolate Manufacturing Company of Prague were nationalized pursuant to Law No. 114/1948, effective January 1, 1948.

In computing the value of the stock of Czechoslovakian corporations at the time of their nationalization, the Commission has considered quotations on various European stock exchanges, financial data from "COMPASS", a financial yearbook, and from other publications, balance sheets and operating statements, book values and advice obtained from governmental



and financial sources in foreign countries. On the basis of all the evidence and information available, the Commission finds that the value of the shares of stock of Schindler & Stein was \$20 per share and those of "DELI" Chocolate Manufacturing Company \$10 per share.

Accordingly, it is concluded that the late Marie Elbogen's interests in Schindler & Stein was \$11,000 and in "DELI" was \$1,500.

The Commission further finds that the entire issue of "SKODA" Works bonds was secured by a mortgage on the real property of the "SKODA" Works Corporation and this corporation was nationalized by the Government of Czechoslovakia pursuant to Decree No. 100/1945, 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, 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 bondholders who had an interest in the corporation's property as mortgagees. The Commission further finds that the value of the bonds owned by the deceased was £1,300, or, converted at the exchange rate of \$2.80 per pound sterling prevailing at the time of taking in 1950, was \$3,640.00.

With respect to the 3% "STEG" priority bonds, the Commission finds the following: The "STEG" (Staats-Eisenbahn-Gesellschaft), a corporation organized under the laws of the defunct Empire of Austria-Hungary, issued priority bonds bearing 3% interest per annum prior to World War I. The Government of Czechoslovakia assumed the servicing of these bonds under an agreement of November 14, 1925 which provided that Czechoslovakia should pay 62.808% of the outstanding interest due on the bonds at a rate of exchange of 27 Swiss francs for 100 gold francs (the currency of the

bonds). Payments had to be made to an agency set up for that purpose in Paris, France, under the name of "Caisse Commune". Czechoslovakia fulfilled its obligations under the 1925 agreement until the end of March 1938. It should be noted that preferential treatment was given to bondholders who were residents of countries other than Austria, Hungary, Czechoslovakia, Rumania, Poland and Yugoslavia because bondholders residing outside the territory of former Austria-Hungary participated in 32% of all the payments made to the "Caisse Commune" before former Austro-Hungarian bondholders could participate in the distribution of the funds.<sup>3/</sup>

Czechoslovakia, as stated above, discontinued the servicing of the bonds in 1938 but on June 2, 1950 a new agreement was concluded between the Government of Czechoslovakia and the "Caisse Commune" regarding the resumption of payments of pre-1914 bonds, including the "STEG" bonds discussed here. An agreement was reached and the first payment of interest had to be made on April 1, 1951. However, the Government of Czechoslovakia failed to make this payment nor did it make subsequent payments for interest due on the bonds. Nevertheless, the Government of Czechoslovakia agreed to reopen negotiations later; but, according to information available to the Commission, such negotiations have not, to date, been commenced.<sup>4/</sup>

The question presented here is: What was the value of the "STEG" bonds on May 23, 1951 when the Government of Czechoslovakia confiscated the property of Marie Elbogen, including her 1,050 "STEG" bonds?

The Government of Czechoslovakia issued an Announcement No. 1706 of August 23, 1946 (Official Gazette No. 159 of September 6, 1946), pursuant to Section 53 of the Law No. 134/46 of May 15, 1946, on the

<sup>3/</sup> See "COMPASS" Financial Yearbook for Austria for 1953, pages 51-81, (Vienna, 1953).

<sup>4/</sup> See Final Decision No. CZ-2380 In the Matter of the Claim of Dora Frankenbush, Claim No. CZ-2,474 (1962).



Property Tax and Tax on Property Gains, in which instructions were given for the appraisal of certain bonds on deposit in Czechoslovakian banks. The 3% priority bonds of the State Railroad Company (STEG) were evaluated in the aforesaid Announcement at 200 Czech crowns per bond. However, due to the fact that the Czech Government did not resume payment of the bonds, as stated above, the Commission finds that in 1951 the value of these bonds was 100 Czech crowns or \$2 per bond. Accordingly, the value of the 1100 "STEG" bonds was \$2,200.00.

With respect to the domestic government bonds described above in the face value of 469,000 Czech crowns, the Commission finds that they were confiscated on May 23, 1951, and that the value thereof was \$9,380.00.

#### VII. Bank Deposits and Proceeds from Insurance Policies

The record shows that the late MARIE ELBOGEN-LOCKETT had on deposit with the Bohemian Union Bank in Prague an amount of 8,510 crowns in so-called old blocked currency and 20,740 crowns in so-called free currency.

No convincing evidence has been submitted that she had other cash deposits in Czechoslovakian banks as asserted in the claims application.

The record further shows that the deceased owned an insurance policy in the original amount of 500,000 Czech crowns issued by VICTORIA zu BERLIN, an insurance company which had an affiliate company in Czechoslovakia where the premiums were paid until 1939. The postwar cash value of the policy was 159,300 Czech crowns.

The deceased also owned an insurance company in the original amount of 700,000 Czech crowns, issued by the RIUNIONE ADRIATICA DI SICURTA, an insurance company which had a representation in Czechoslovakia where the premiums were paid until 1939. The postwar cash value of this policy was 212,800 Czech crowns.

The Commission finds that Marie Elbogen's entire property was confiscated, as stated above, on May 23, 1951 and that such confiscation

included the above balances in her bank accounts and the cash values of the insurance policies in the aggregate amount of 401,350 Czech crowns, or \$8,027.00.

#### VIII. Objects of Art and Furnishings

Claimant states that MARIE ELBOGEN-LOCKETT was the owner of an art collection of considerable value. It is asserted that this property was taken by the Government of Czechoslovakia and that its value was \$120,000.

In support of this part of the claim, claimant submitted photographs of some of the art works, a letter from the National Gallery of Prague, dated July 2, 1948, indicating that one sculpture from the Elbogen art collection was in the Gallery's custody; and bills and invoices showing that Friedrich Elbogen, the deceased husband of Marie Elbogen, purchased some of the objects of art upon which the claim is based.

Claimant admits that after World War II only five of fourteen major objects of art formerly in the possession of the Elbogen family were found in the National Gallery of Prague, namely:

- (1) One Roman head of Horus (200 A.D.)
- (2) Jan van Goyen's "Landscape with Farms" (1653)
- (3) Klaes Molenaer's "Landscape with Farms"
- (4) Still Life by a German artist (18th Century)
- (5) Replica of Madonna del Casa by a member of the School of Donatello.

The Commission, therefore, concludes that the decree confiscating the property of Marie Elbogen, dated May 23, 1951, included only the five above-described art objects.

Bills of sale submitted by the claimant show that Friedrich Elbogen paid in 1925 for the Molenaer picture 6,800 Austrian shillings, or, at the rate of exchange then in effect, approximately \$952.00; and that he paid in 1929 7,200 Austrian shillings for the Donatello "Madonna", or, approximately \$1,008. In a list submitted by the claimant, the above art objects are evaluated as follows:



(1)	Roman head (sculpture)	\$ 150.00
(2)	Jan van Goyen (picture)	7,000.00
(3)	Klaes Molenaer (picture)	3,000.00
(4)	Still Life (picture)	150.00
(5)	Donatello's Madonna	<u>1,000.00</u>
Total		\$ 11,300.00

The Commission finds that claimant has proved the value only of the picture by Klaes Molenaer and of Donatello's Madonna in the aggregate amount of \$1,960.00.

With respect to the three other objects of art (Roman head, Jan van Goyen's landscape, and the still life by an 18th century German artist), the evidence of record is insufficient to permit a determination of the value thereof. Accordingly, the portion of the claim for these three objects is denied.

As stated above, claimant admits that no major objects of art of the Elbogen collection other than the five (5) objects described above have been recovered after World War II in Czechoslovakia. Since it has not been established that the loss of these objects of art resulted from the nationalization or other taking by the Government of Czechoslovakia on or after January 1, 1945, this part of the claim is also denied.

With respect to the portion of the claim for furnishings and household goods, claimant filed lists of antique furniture, rugs, clocks, silverware, glass, china, etc., for which no evidence of ownership nor of value was furnished. The Commission holds that claimant has not sustained the burden of proof in these respects. Therefore, this portion of the claim is also denied.

#### RECAPITULATION

Summarizing, claimant is entitled under Section 404 of the Act to compensation as follows:

Property	Value in \$	Date of Taking	6% Int. from Date of Taking to 8/8/58	Total Compensation
✓ Mansion				
13 Pelleova	\$ 91,500.00	5/23/51	\$ 39,573.75	\$ 131,073.75
✓ Houses				
Havlicek Square	342,000.00	5/23/51	147,915.00	489,915.00
> Aussig Shipyards	44,460.00	1/ 1/48	28,284.12	72,744.12
> Pecek Sugar Loan	36,702.68	5/23/51	15,873.91	52,576.59
Shares of Stock	12,500.00	1/ 1/48	7,952.13	20,452.13
"SKODA" Bonds	3,640.00	7/ 1/50	1,769.66	5,409.66
"STEG" Bonds	2,200.00	5/23/51	951.50	3,151.50
Domestic Bonds	9,380.00	5/23/51	4,056.85	13,436.85
Insurance and				
Bank Deposits	8,027.00	5/23/51	3,471.68	11,498.68
✓ Art Objects	1,960.00	5/23/51	847.70	2,807.70
<b>TOTAL</b>	<b>\$ 552,369.68</b>		<b>\$ 250,696.30</b>	<b>\$ 803,065.98</b>

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to EDITH DURAND, Executrix of the ESTATE of MARIE ELBOGEN-LOCKETT in the principal amount of Five Hundred Fifty-two Thousand Three Hundred Sixty-nine Dollars and Sixty-eight Cents (\$552,369.68) 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 Two Hundred Fifty Thousand Six Hundred Ninety-six Dollars and Thirty Cents (\$250,696.30) for a total award of Eight Hundred Three Thousand Sixty-five Dollars and Ninety-eight Cents (\$803,065.98).

Dated at Washington, D. C.

**JUN 20 1962**

BY DIRECTION OF THE COMMISSION:

*Francis T. Masterson*

Francis T. Masterson  
Clerk of the Commission

THIS DECISION WAS ENTERED AT THE COMMISSION'S

FINAL DECISION ON **AUG 29 1962**

*Francis T. Masterson*  
Clerk of the Commission