

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

IN THE MATTER OF THE CLAIM OF

THE FIRST NATIONAL BANK OF BOSTON
67 Milk Street
Boston, Massachusetts

Claim No. HUNG-20,954

Decision No. HUNG-

1753

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

Bingham, Dana and Gould
1 Federal Street
Boston 10, Massachusetts

PROPOSED DECISION

This is a claim for \$779,152.60, plus interest, against the Government of Hungary under Section 303 of the International Claims Settlement Act of 1949, as amended, based upon the failure of that Government to fulfill its contractual obligations under certain Treasury Bills, and under certain commercial transactions entered into by Hungarian banks subsequently nationalized.

The Commission finds that the claimant, a national of the United States as defined in the Act, is the holder of ten Treasury Bills issued by the Government of Hungary on February 14, 1933, bearing numbers L-19 through L-28, which were received by claimant for its participation in a syndicate credit to the Government of Hungary managed by Speyer and Company of New York City. Under the terms of each of these bills, the Government of Hungary, for value received, promised to pay to the bearer \$54,619.78 on August 14, 1933. By subsequent agreements, the maturity date was extended to August 14, 1935, August 14, 1936, and August 14, 1937. By agreement dated July 20, 1937, the maturity date was extended to August 14, 1940, with interest payable

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semi-annually at the rate of $1\frac{1}{2}\%$ per annum. By prolongation of the terms of that agreement, the maturity date was extended to November 14, 1940.

Apparently there was no further extension agreement, and no payment of the principal indebtedness was made on November 14, 1940, although all installments of interest due through that date were paid, and a further payment of interest at $1\frac{1}{2}\%$ per annum was made for the three-month period ending February 14, 1941. One further payment was received on November 13, 1942 from J. Henry Schroder Banking Corporation, which had replaced Speyer and Company as the service bankers in 1939, and which, under United States Treasury license, distributed to United States holders of the Treasury Bills \$51,704.40 from certain previously impounded funds. These funds were used first to pay interest at $1\frac{1}{2}\%$ per annum from February 15, 1941 through April 14, 1942, and the balance was designated as a principal payment, reducing the face amount of each of claimant's Bills to \$53,792.72, except for the Bill numbered L-28, which was reduced to \$53,792.67.

Section 303(3) of the Act authorizes the Commission to receive and determine, among other claims, those based upon the failure of the Government of Hungary to --

meet obligations expressed in currency of the United States arising out of contractual or other rights acquired by nationals of the United States prior to ... September 1, 1939, in the case of Hungary..., and which became payable prior to September 15, 1947.

Although the unpaid principal indebtedness on claimant's Treasury Bills on November 14, 1940 was \$546,197.80, a payment of \$8,270.65 was applied to principal on November 13, 1942, and no claim is made for that amount, since it cannot now be said that the Government of Hungary has failed to meet that portion of its obligation. The loss of use of the \$8,270.65 during the two-year period between due date and date of payment does not give rise to a claim under Section 303(3) of the Act for

interest for that period, inasmuch as there was no express contractual obligation for the payment of interest after November 14, 1940.

The Commission finds that the Government of Hungary has failed to meet its obligation with respect to claimant's Treasury Bills to make payment in the amount of \$537,927.15. The Commission concludes that claimant is entitled to an award in that amount under Section 303(3) of the Act. Claimant is also entitled to interest on that amount at the rate of 6% per annum from November 14, 1940, the date of default, to August 9, 1955, the effective date of the Act. Interest at the rate of $1\frac{1}{2}\%$ per annum having been paid for the period from November 14, 1940 to April 14, 1942, this award shall include interest computed at the rate of $4\frac{1}{2}\%$ per annum for that period, and at 6% per annum thereafter.

In addition, claim is made for amounts allegedly due as the result of claimant's acceptance and payment of various drafts drawn by commercial enterprises. In each instance, the acceptance and payment were requested, by, and repayment guaranteed by, either the British Hungarian Bank Ltd. or the Hungarian General Creditbank. Claimant states that these banks subsequently were nationalized by the Hungarian Government, which thereby became obligated to make the payments which had been guaranteed by the banks, and which has failed to meet its obligations. It is not alleged or suggested that either of the banks was an agency of the Hungarian Government prior to its nationalization, or that payment of the amounts due claimant had been guaranteed by the Hungarian Government or any agency thereof prior to the nationalization of the banks.

Nationalization of the banks was accomplished under Hungarian Law 1947:XXX tv. (Magyar Kozlony, December 4, 1947), with all shares of stock issued by the banks becoming the property of the Hungarian Treasury. Article 4 of the Decree provided that "the legal personality or the organic independence of the banking institution concerned shall not be affected by the nationalization." There was no provision for assumption

by the Hungarian Government itself of the liabilities of nationalized banks. There is nothing in the substitution of the Hungarian Government for previous stockholders to constitute an assumption of the liabilities of the banks by the Hungarian Government as such. Each bank continued as a legal entity, retaining its obligations to claimant. Under the circumstances, the Commission finds no basis for an award under Section 303(3) of the Act for this portion of the claim.

Even had the Government of Hungary assumed the liabilities of the banks, this would have occurred too late to support an award in a claim against Hungary under Section 303(3) of the Act, which is construed as requiring that the obligation have been one of the Hungarian Government on September 1, 1939. In this respect, and also for the reasons why the circumstances involved herein do not give rise to a claim under Section 303(2) of the Act, see the attached copy of Proposed Decision No. HUNG-1438, In The Matter of the Claim of Pauline V. Brower, (HUNG-20,190). Accordingly, this portion of the claim is denied.

A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, this claim is allowed in part, and an award is hereby made to THE FIRST NATIONAL BANK OF BOSTON in the amount of Five Hundred Thirty-Seven Thousand Nine Hundred Twenty-Seven Dollars and Fifteen Cents (\$537,927.15), plus interest in the amount of Four Hundred Sixty-Four Thousand One Hundred Eighty-Six Dollars and Thirty Cents (\$464,186.30).

Payment of any part of this award shall not be construed to have divested claimant herein, or the Government of the United States on its behalf, of any rights against the Government of Hungary for the unpaid balance of the claim, if any.

Dated at Washington, D. C.

JAN 12 1959

FOR THE COMMISSION:

Donald G. Benn
Donald G. Benn, Director
Balkan Claims Division

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