

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

IN THE MATTER OF THE CLAIM OF

ADALBERT GREINER, also known as
VOJTECH GREINER
300 Fourth Avenue
New York 10, New York

Claim No. IT-10,088

Decision No. IT-19-2

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

Attorney for Claimant:

GEORGE E. TOLMAN, Esquire
Mills Building
17th Street and Pennsylvania Avenue
Washington 6, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on May 18, 1959, a certified copy of which was duly served upon the claimant. Full consideration having been given to the objections of the claimant, filed within the twenty-day period after such service which has now expired, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Washington 25, D. C.

JUL 13 1959

Whitney Dilliland
Paul Pace
Robert L. Kunzig

COMMISSIONERS

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

IN THE MATTER OF THE CLAIM OF

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300 Fourth Avenue
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Under the International Claims Settlement
Act of 1949, as amended

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Claim No. IT-10,088

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Attorney for Claimant:

GEORGE E. TOLMAN, Esquire
Mills Building
Washington 6, D. C.

PROPOSED DECISION

This timely filed claim for \$6,585.00 is before the Commission by virtue of an amendment to Section 304 of the International Claims Settlement Act of 1949, as amended, pursuant to Section 2, Public Law 85-604.

This claim was previously denied for the reason that it did not meet the necessary nationality requirements under Section 304 of the Act in that said claim was not continuously owned by a national of the United States from the date of loss to the date of filing. Since the claim was denied for the foregoing reason, other factors with respect to claimant's eligibility were not considered, nor was the Commission required to do so.

On August 8, 1958, the following amendment to Section 304 (Sec. 2, Public Law 85-604, 72 Stat. 531) was approved:

Section 304 of the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof the following: "Upon payment of the principal amounts (without interest) of all awards from the Italian Claims Fund created pursuant to Section 302 of this Act, the Commission shall determine the validity and amount of any claim under this section by

any natural person who was a citizen of the United States on the date of enactment of this title and shall, in the event an award is issued pursuant to such claim, certify the same to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund ----."

The Commission has construed the language in the amendment as requiring it to "determine the validity and amount of any claim" of persons who were citizens of the United States on August 9, 1955, notwithstanding the fact that the claim may have been denied under Section 304 of the Act prior to the amendment for reasons other than claimant's failure to meet the test of nationality.

In the light of the foregoing, the claim has been re-examined and it has been determined that the claimant herein, Adalbert Greiner, is a citizen of the United States since his naturalization on May 27, 1946.

Section 304 of the aforesaid Act provides for the receipt and determination by the Commission, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Italy, arising out of the war in which Italy was engaged from June 10, 1940 to September 15, 1947, and with respect to which provision was not made in the Treaty of Peace with Italy.

Under Article 78 of the Treaty of Peace the Government of Italy undertook, among other things, to restore all legal rights and interests in Italy of United Nations nationals as they existed on June 10, 1940; to return all property in Italy of the United Nations nationals as they existed on the date of said Treaty, September 15, 1947; and, in cases where the property could not be returned, or where, as a result of the war, a United Nations national had suffered a loss by reason of injury or damage to property in Italy, to pay compensation in accordance with the terms of the Treaty.

The records disclose that claimant requested compensation from the Government of Italy, under Article 78 of the Peace Treaty, for damages sustained as a result of the seizure of 344 reels and 20 bales of paper. The records further disclose that claimant received compensation, under said Article 78 of the Peace Treaty, for 222 reels and 20 bales of paper which were seized by a decree of the Prefect of Naples on August 9, 1941 pursuant to Italian Government war laws, and that the portion of his claim based on the balance of 122 reels of paper was denied on the ground that "there was no evidence that the 122 reels of paper were lost as a result of the war, or that any hostile measures were taken by the Italian authorities against them."

The instant claim is based on the asserted seizure by the Italian Government of the aforementioned 122 reels of paper for which compensation was denied by said government under Article 78 of the Peace Treaty. Claimant has failed to submit evidence to support his allegations of seizure or loss attributable to Italian war action.

Furthermore, since provision was made for such claims in the Treaty of Peace, the Commission finds that the claim is not compensable under the provisions of Section 304 of the Act.

Accordingly, this claim is hereby denied.

Dated at Washington, D. C.

FOR THE COMMISSION:

MAY 18 1959


J. Noble Richards

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

IN THE MATTER OF THE CLAIM OF

ADALBERT GREINER formerly known as
VOJTECH GREINER
300 Fourth Avenue
New York 10, New York

Claim No. IT-10,088

Decision No. IT-19

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Attorney for Claimant:

GEORGE E. TOLMAN, Esquire
Mills Building
Washington 6, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on December 21, 1956, a certified copy of which was duly served upon the claimant. No objections or request for a hearing having been filed within twenty days after such service and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Washington 25, D. C.

MAR 20 1957

Whitney Gilliland

Earl Pace

Henry S. Clay
COMMISSIONERS

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

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In the Matter of the Claim of

ADALBERT GREINER formerly known as
VOJTECH GREINER
300 Fourth Avenue
New York 10, New York

Claim No. IT-10,088

Decision No. It-19

Under Section 304 of the International
Claims Settlement Act of 1949, as amended

Attorney for Claimant:

George E. Tolman, Esquire
Mills Building
Washington 6, D. C.

PROPOSED DECISION

This is a claim against the Government of Italy, under Section 304, of the International Claims Settlement Act of 1949, as amended.

Section 304 of the aforesaid Act provides for the receipt and determination by the Commission, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Italy, arising out of the war in which Italy was engaged from June 10, 1940 to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy.

Under a well established principle of international law, eligibility for compensation requires that the property which was the subject of damage or loss must have been owned by a United States national at the time the damage or loss occurred and that the claim arising as a result of such damage or loss, must have been continuously owned thereafter by a United States national or nationals.

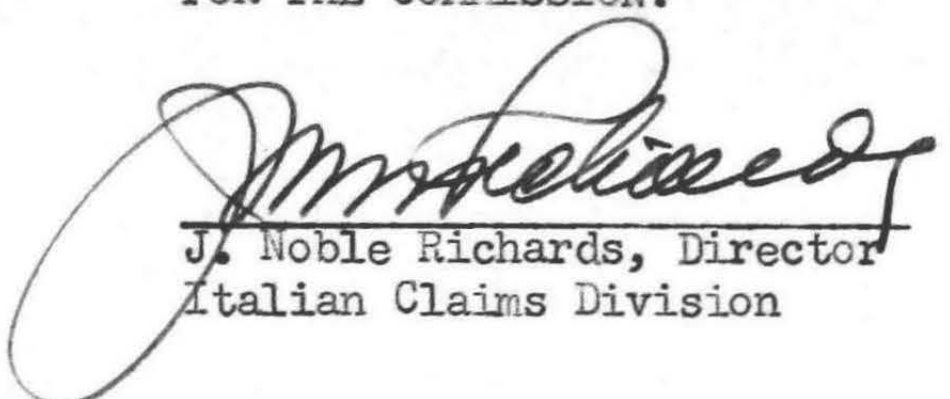
The Commission's records disclose that the claimant was not a national of the United States at the time the loss or damage to his property occurred.

For the foregoing reason, the claim must be, and is hereby, denied. Other elements bearing upon eligibility have not been considered.

Dated at Washington, D. C.

FOR THE COMMISSION:

DEC 21 1958



J. Noble Richards, Director
Italian Claims Division