

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, DC 20579

In the Matter of the Claim of	}	
SOTIRAQ QANO		Claim No. ALB-150
Against the Government of Albania		Decision No. ALB-285

Hearing on the record held on April 15, 1997

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Dardhe and Korce, District of Korce.

By Proposed Decision entered on February 24, 1997, the Commission made an award to claimant in the principal amount of \$800.00 (plus interest from January 1, 1967 to April 18, 1995, in the amount of \$1,310.40), as compensation for the loss of his father's agricultural property. The Commission also made an award to claimant in the amount of \$10,000.00 (plus interest from March 14, 1980 to April 18, 1995, in the amount of \$12,780.00), as compensation for the loss of his one-third interest in a building, consisting of a residence and a pharmacy, including the land on which it stood. The

Commission denied other parts of claimant's claim -- for a one-third interest in the pharmaceutical supplies and equipment kept on the premises and stored in the basement of the pharmacy and for a one-half interest in the pharmacy business -- for lack of sufficient evidence.

By letter dated March 12, 1997, the claimant stated objection to the Commission's denial of the claim for his one-half interest in the pharmacy business, indicating that he expected to submit affidavits of individuals who were present at the time of the confiscation of the pharmacy and expected those affidavits to assign a value to the confiscated property, which therefore would establish the "value of the pharmacy business." By letter dated March 31, 1997, the claimant submitted one affidavit signed by four pharmacists who state that they were familiar with his father's and uncle's pharmacy business and were present when the pharmacy was nationalized in 1946. The claimant asserts that this affidavit together with certain documents previously submitted to the Commission is sufficient to establish the "value of the business."

*It is unclear whether the claimant is also specifically objecting to the Commission's denial of the claim for his one-third interest in the pharmaceutical medicines and equipment confiscated; the Commission assumes that he is. In any event, the new affidavit is submitted to support "the value of the pharmacy business."

Because claimant has not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record.

The Commission has again reviewed the entire record, which now includes the recently submitted affidavit concerning the value of the pharmacy in question. The affiants state that the pharmacy's medicines, medical equipment, cabinets, counters, shelves and windows had a value of 100,000 Albanian francs. The Commission has also taken note of the "Proclamation" of May 25, 1946 submitted by the claimant, which indicates that the pharmacy had a profit of 18,800 Albanian francs for the year 1945. Thus, at the exchange rate of 10 francs to \$1.00 that was in effect in 1945, the estimated value of the pharmacy's assets was \$10,000.00 and its 1945 profit amounted to \$1,810.00.

Based on the totality of the evidence in the record, the Commission finds that the value of the pharmacy business, including both its assets and its value as a "going concern," was \$15,000.00 at the time of confiscation. Accordingly, claimant is entitled to an award in the principal amount of \$7,500.00 for his one-half interest therein. This portion of the award shall date from April 24, 1946, the date of the pharmacy's confiscation.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimant is entitled to interest as part of this portion of the award, amounting to 6 percent simple interest per annum from the dates of loss to April 18, 1995 (the effective date of the Settlement Agreement). Accordingly, claimant is also entitled to an interest award of 293.8 percent of his principal award of \$7,500.00 or \$22,035.00.

The Commission therefore withdraws the award made in its Proposed Decision and enters the award set forth below, which will be certified to the Department of Treasury for payment in accordance with sections 5, 7 and 8 of Title I of the ICSCA (22 U.S.C. §§ 1624, 1626 and 1627). In all other respects, the Proposed Decision is affirmed.

Under the terms of the Settlement Agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards, so as to prevent double recovery in a claim. A copy of this decision therefore will be forwarded to the Albanian Government in due course.

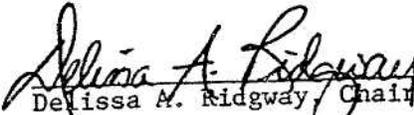
This constitutes the Commission's final determination in this claim.

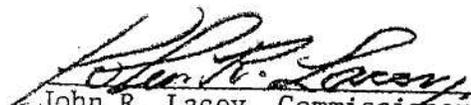
A W A R D

Claimant SOTIRAQ QANO is entitled to an award in the total principal amount of Eighteen Thousand Three Hundred Dollars (\$18,300.00), plus interest on \$800.00 in the amount of One Thousand Three Hundred Ten Dollars and Forty Cents (\$1,310.40), interest on \$10,000.00 in the amount of Twelve Thousand Seven Hundred Eighty Dollars (\$12,780.00), and interest on \$7,500.00 in the amount of Twenty-Two Thousand Thirty-Five Dollars (\$22,035.00), for a total interest award of Thirty-Six Thousand One Hundred Twenty-Five Dollars and Forty Cents (\$36,125.40), and a total award of principal and interest in the amount of Fifty-Four Thousand Four Hundred Twenty-Five Dollars and Forty Cents (\$54,425.40).

Dated at Washington, DC and
entered as the Final
Decision of the Commission.

APR 15 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner

The Governments of the United States and Albania concluded an agreement for en bloc settlement of claims of United States nationals against Albania on March 10, 1995. *Agreement Between the Government of the United States and the Government of the Republic of Albania on the Settlement of Certain Outstanding Claims*, March 10, 1995 (entered into force April 18, 1995) ("Settlement Agreement"). Claims covered by the Settlement Agreement are

the claims of United States nationals (including natural and juridical persons) against Albania arising from any nationalization, expropriation, intervention, or other taking of, or measures affecting, property of nationals of the United States prior to the date of this agreement[.]

Settlement Agreement, Article 1(a).

The claimant herein, SOTIRAQ QANO, asserts a multi-part claim. First, he seeks compensation for the alleged expropriation by the Government of Albania in 1967 of 1.06 hectares of farmland located in Dardhe, District of Korce. Second, he seeks compensation for a one-third interest in a building located in the center of Korce, consisting of a residence, shops on the first floor which housed a pharmacy, and an underground basement where pharmaceutical supplies were stored. According to the claimant, the pharmacy and its contents were confiscated in 1945 and the residence was confiscated in 1980 when the building was torn down. Third, he seeks compensation for the 104 square

meters of land upon which the building once stood. Finally, he seeks compensation for his father's one-half interest in the pharmacy business.

In support of his claim, the claimant has submitted a copy of his United States passport, issued in 1992 in Albania; a copy of his father's Certificate of Naturalization; a certificate of inheritance indicating the dates of death of his parents; documents of ownership; a partnership agreement; affidavits; and other relevant documents.

Based on the evidence in the record, the Commission finds that claimant's father, Timothy Michael Gregory (Thimi Ligor Qano), acquired United States nationality by naturalization on September 28, 1914, in Boston, Massachusetts, and died in Albania on February 26, 1975. The claimant has established his United States nationality by birth abroad in 1943 to a national of the United States.

The Commission further finds that claimant's father owned several parcels of arable land totaling 1.06 hectares (2.6 acres) in the village of Dardhe, District of Korce. The Commission is aware that on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law," which provided that land not directly worked by the owner was subject to seizure and redistribution by the government, without payment of compensation to the

legal owner. Land Reform Law No. 108, GZ 1945, No. 39. That law was affirmed by the 1946 Albanian constitution which stated that "land belongs to the tiller." Alb. Const., 1946, Ch. I, Art. 12.

Based on the entire record, the Commission determines that the implementation of the Agrarian Reform Law, coupled with the formation of agricultural cooperatives, had the effect of depriving the claimant's father of 1.06 hectares of agricultural property, and thereby constituted an uncompensated expropriation by the Government of Albania. In this case, claimant has stated that his father's property was confiscated in 1967, after the effective date of collectivization of farmland in the vicinity of the village of Dardhe. For lack of a precise date, the Commission will deem the taking to have occurred as of January 1, 1967.

The claimant has stated that, when his grandfather purchased this property, one square meter was worth 4.5 Albanian francs. However, claimant has not submitted any evidence to support such valuation. Based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, the Commission finds that the claimant's father's property totaling 1.06 hectares (2.6 acres) located in the village of Dardhe, District of

Korce, had a value at the time of expropriation of approximately \$300 per acre, or \$800.00.

The Commission further finds that this claim, owned by the late Thimi Ligor Qano, a widower, passed under the inheritance laws of Albania to his son, the claimant SOTIRAQ QANO. Accordingly, claimant is entitled to an award in the principal amount of \$800.00 as compensation for the loss of his father's agricultural property, dating from January 1, 1967.¹

In support of his claim for a one-third interest in the building located in Korce, the claimant has submitted a Certificate of Ownership indicating that his father owned a one-third interest in the property consisting of a "dwelling house," "ground next to the house" and "shops on the ground floor" which he transferred to the claimant on September 28, 1970. Evidence in the record, which includes Decision No. 40 dated March 14, 1980 of the Executive Committee of the

¹The Commission's independent consultant in Albania has informed the Commission that the Albanian Commission for the Return of Property or Compensation of the city of Korce has returned 1,200 square meters of land in the village of Dardhe to the claimant. However, it appears that that particular property is not included as part of the claim currently before this Commission.

People's Council of Korce District, indicates that the property in issue was effectively confiscated and its demolition was ordered.²

Based on the entire record, the Commission determines that the issuance of Decision No. 40 of March 14, 1980 by the Executive Committee of the People's Council effectively deprived the claimant of his one-third interest in the property, and thereby constituted an uncompensated "intervention, or other taking of, or measures affecting" the claimant's property. Settlement Agreement, Article 1(a). Accordingly, claimant is entitled to an award of compensation for the resulting loss.

The Certificate of Ownership submitted by the claimant indicates that in 1944, the entire building, with shops on the ground floor, had a value of approximately 4,500 Albanian francs. But, according to the claimant, (who also claims for the 104 square meters of land upon which this building stood), one square meter of land was worth \$109.58 in 1944.³

²At that time, the Executive Committee of the People's Council valued the building at 14,103 Leks and ordered that the owner was to be awarded 1,400 Leks for the property. After its destruction, the owners were to be awarded 19,000 Leks. The claimant has stated that the only compensation that he received was the equivalent of \$4.00 in order to move his furniture out.

³Claimant has submitted no evidence to support his assertion that the underlying land measured 104 square meters. The only affidavit submitted regarding confiscation of the contents of the pharmacy, discussed below, states that the basement where medical and pharmaceutical supplies were stored measured approximately 90 square meters.

Based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, together with the evidence before it in this case, the Commission finds that claimant's one-third interest in the Korce building, consisting of a residence and a pharmacy, including the land on which it stood, had a value of \$10,000.00 at the time of confiscation in 1980.

The claimant also claims for a one-third interest in the pharmaceutical supplies and equipment kept on the premises and stored in the basement of his father's pharmacy, which were confiscated in April 1946. In addition, he asserts a claim for a one-half interest in the business of the pharmacy in which his father was a partner. In support of this portion of the claim, he has submitted a copy of a decree dated April 20, 1946, nationalizing all pharmacies. Claimant has also submitted a document entitled "Proclamation" which indicates that in 1946, his father's brother, Petraq Qano, was assessed certain taxes on the profits of his pharmacy business. The profits are specified as 18,800 francs. The claimant has also submitted an unsworn affidavit, in English only, signed in Albania by Koli Kondakci and Gago Gellci. The affiants, two pharmacists, state that claimant's father and uncle opened a pharmacy in March 1944 in Korce and that this pharmacy was nationalized in April 1946 by the Albanian government. At

that time, according to their affidavit, the pharmacy had equipment and medicine both on its shelves and in the basement. The affiants also state, however, that they are unable to estimate a value for the equipment and supplies but declare that the area of the pharmacy was 90 square meters.

Finally, in support of his claim for the one-half interest in the pharmacy business, the claimant has submitted a Partnership Agreement signed in 1939 by his father and his uncle, Petraq Ligor Qano, a pharmacist. Under the terms of this agreement, the partnership was to begin on September 1, 1939 and to last ten years. Claimant's father was to put up the capital and his uncle Petraq was to run the business. No other evidence has been submitted.

Section 531.6(d) of the Commission's regulations provides:

The claimant shall be the moving party, and shall have the burden of proof on all issues involved in the determination of his or her claim.

45 C.F.R. 531.6(d) (1995).

The Commission finds that the claimant has not met the burden of proof in that he has failed to submit supporting evidence to establish either the ownership or the value of the contents of the pharmacy. Similarly, except for the one document which indicates that his uncle was assessed taxes on profits of 18,800 francs, claimant has submitted no evidence to establish the value of the

pharmacy business. This portion of the claim therefore must be and is hereby denied.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission concludes that the claimant is also entitled to interest as part of the award granted to him herein, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, claimant is entitled to an interest award of 163.8 percent of his principal award of \$800.00, or \$1,310.40, and to an interest award of 127.8 percent of his principal award of \$10,000.00, or \$12,780.00.

Under the terms of the U.S.-Albania Settlement Agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards so as to prevent any double recovery in claims filed in both countries. A copy of this decision will therefore be forwarded to the Albanian government in due course.

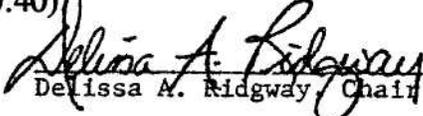
The Commission therefore makes the following award, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICSA (22 U.S.C. §§1624, 2626 and 1627).

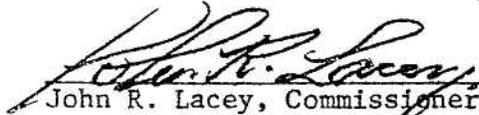
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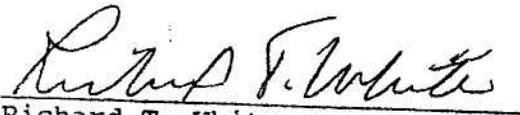
Claimant SOTIRAQ QANO is entitled to an award in the total principal amount of Ten Thousand Eight Hundred Dollars (\$10,800.00), plus interest on \$800.00 in the amount of One Thousand Three Hundred Ten Dollars and Forty Cents (\$1,310.40), and interest on \$10,000.00 in the amount of Twelve Thousand Seven Hundred Eighty Dollars (\$12,780.00), for a total interest award of Fourteen Thousand Ninety Dollars and Forty Cents (\$14,090.40), and a total award of principal and interest in the amount of Twenty-Four Thousand Eight Hundred Ninety Dollars and Forty Cents (\$24,890.40)

Dated at Washington, DC and
entered as the Proposed
Decision of the Commission.

FEB 24 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. 531.5 (e) and (g) (1995).