

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

IN THE MATTER OF THE CLAIM OF

JULES M. PAVITT
200 West 58th Street
New York, New York

Under the International Claims Settlement
Act of 1949, as amended

Claim No. SOV-40,740

Decision No. SOV-2510

GPO 16-78126-1

Counsel for Claimant:

VERA BOUDIN
1440 Broadway
New York 18, New York

SUPPLEMENTAL FINAL DECISION

The Commission issued its Supplemental Proposed Decision on this claim on February 2, 1959, a 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 Supplemental Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Supplemental Proposed Decision be and the same is hereby entered as the Supplemental Final Decision on this claim, and it is further

ORDERED that the additional award granted pursuant thereto be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

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Whitney Hilliland
Paul Pace
Robert L. Kunzig
COMMISSIONERS

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SUPPLEMENTAL PROPOSED DECISION

By its Proposed Decision of April 2, 1958 the Commission made an award on that part of this claim based upon a bank account and denied that part predicated upon shares of stock in several Russian companies which had been nationalized by the Soviet Government. The Final Decision dated May 21, 1958 affirmed the Proposed Decision.

That item of the claim based upon such shares of stock was denied for the claimant was unable to prove that at least 25% of the outstanding capital stock of the issuing companies was owned by individual United States nationals at the time they were nationalized by the Soviet Government as required by Section 311(b) of the International Claims Settlement Act of 1949, as amended.

By Public Law 85-604 of August 8, 1958, the aforesaid 25% requirement was eliminated in those claims based upon direct stock ownership in Russian corporations which were nationalized. The claimant has requested the Commission to reconsider that part of his claim based upon shares of stock.

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Under Section 305(a)(2) of the Act, and under well-established principles of international law relating to claims espoused by the United States against other governments, eligibility for compensation requires, among other things, that the property which is the subject of the loss must have been owned by a United States national at the time of such loss and that the claim arising therefrom must have been continuously owned thereafter by a United States national.

This item of the claim is based upon an interest of the claimant as a participant in a joint account, or venture, composed solely of shares of stock in four Russian companies, and as the sole owner of shares in another Russian Company. The claimant has stated that his interest in such account, or venture, was increased from 1/7th to 1/4th in August 1918 but that such transaction was not reduced to writing. It makes no difference whether this transaction can be proved or not for it occurred after the Russian companies were nationalized; therefore, a claim for such interest (increase from 1/7th to 1/4th) would apparently not have arisen in favor of a United States national or nationals as required to come within the purview of Section 305(a)(2) of the Act. (See paragraph immediately preceding.)

As to the account or joint venture, the Commission finds that the claimant had a 1/7th interest in the following-described shares of stock when the issuing companies were nationalized by the Soviet Government:

<u>Name of Issuing Company</u>	<u>Number of Shares Owned by Venture</u>	<u>Date of Nationalization of Company</u>	<u>Market Value in Rubles per share on date of Nationalization</u>	<u>Total Market Value in rubles of shares owned by Venture</u>
P. V. Baranovski Mechanical, Cartridge and Pipe Company	300	6/28/1918	175 *	52,500
Taganrog Metallurgical Company	250	6/28/1918	230 *	57,500
Kolchugin Sheet & Brass Prod. Company	100	6/28/1918	568 *	56,800
I. V. Yunker Commercial Bank	<u>133</u>	12/27/1917	**	<u>98,365</u>
Total	<u>783</u>			<u>265,165</u>

* Stock market quotation as of October 21, 1917.

** Used purchase price in June 1917 as only market price at end of 1916 is available.

Evidence before the Commission shows that as of June 22, 1917 the account, or venture, was composed of shares of stock which had been purchased for 334,027.82 rubles, but only 102,875 rubles of the venture had actually been invested, with the certificates for such shares being deposited as collateral for a loan of the balance of the purchase price of 231,152.82 rubles. The net value (cost less loans) of these various shares of stock are shown below:

(1) Net Value of Shares Issued by Three Russian Companies:

<u>Name of Company</u>	<u>Market Value in Rubles of Shares on June 28, 1918</u>	
P. V. Baranowski	52,500	
Taganrog	57,500	
Kolchugin	<u>56,800</u>	
Total		166,800
Less: Loans applicable to above shares		<u>162,297</u>
Net Value to Venture		4,503

(2) Net Value of I. V. Yunker stock:

Market value on December 27, 1917	98,365	
Less: Loans thereon	<u>68,855</u>	
Net Value to Venture		<u>29,510</u>
Total Net Value in Rubles to Venture		<u>34,013</u>

The Commission also finds that the claimant was the sole owner of 30 shares of stock of Bryansk Coal Mining Company when it was nationalized on June 28, 1918 and that such shares had a value on that date of 10,025 rubles.

On the basis of the foregoing, the following-described addition will be made to the principal amount of the award set out in the Proposed Decision of April 2, 1958:

<u>Claimant's Interest</u>	<u>Date Claim Arose</u>	<u>Value of Ruble When Claim Arose</u>	<u>Value in U. S. Dollars</u>
643 (1/7 of 4,503)	6/28/1918	14 cents	\$ 90.02
4,216 (1/7 of 29,510)	12/27/1917	13 cents	548.08
<u>10,025</u>	6/28/1918	14 cents	<u>1,403.50</u>
<u>14,884</u>			<u>\$ 2,041.60</u>

The Commission finds, therefore, that in addition to the award of \$7,477.07 with interest thereon of \$7,125.65 as set forth in the Proposed Decision of April 2, 1958, the claimant is entitled to a supplemental award in the amount of \$2,041.60, plus interest thereon of \$1,900.93 with such interest computed as follows:

<u>Amount of Award</u>	<u>Date Claim Arose</u>	<u>Amount of Interest</u>
\$ 1,493.52	6/28/1918	\$ 1,378.52
<u>548.08</u>	12/27/1917	<u>522.41</u>
<u>\$ 2,041.60</u>		<u>\$ 1,900.93</u>

SUPPLEMENTAL AWARD

On the above evidence and grounds, a supplemental award is hereby made to JULES M. PAVITT, claimant herein, in the amount of Two thousand forty-one dollars and sixty cents (\$2,041.60), plus interest thereon of One thousand nine hundred dollars and ninety-three cents (\$1,900.93). No determination is made with respect to interest for any period subsequent to November 16, 1933.

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

Dated at Washington, D. C.

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FOR THE COMMISSION:

Joseph Stein

Joseph Stein
Director, Soviet Claims Division

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OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

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200 West 58th Street
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Claim No. SOV-40,740

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Under the International Claims Settlement
Act of 1949, as amended

OPD 16-72120-1
Counsel for Claimant:

VERA BOUDIN
1440 Broadway
New York 18, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on April 2, 1958, a 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, and it is further

ORDERED that the award granted pursuant thereto be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

MAY 21 1958

Whitney Gilliland

Richard L. ...

Henry ...

COMMISSIONERS

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IN THE MATTER OF THE CLAIM OF

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Under the International Claims Settlement
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Claim No. SOV-40,740

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gpo 16-72126-1

Counsel for Claimant:

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1440 Broadway
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PROPOSED DECISION

This claim for \$46,604.85 under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended, is based upon a loss allegedly sustained when the Soviet Government nationalized several companies in which the claimant owned shares of stock and confiscated a bank account of the claimant.

The burden of proving a claim is on the claimant. Although he has been afforded several opportunities to adduce evidence in support of his ownership of the aforesaid shares of stock, he has not done so. His attorney has informed the Commission that it is impossible for the claimant to obtain evidence to meet the requirement of 25% ownership of the outstanding capital stock of these corporations by individual United States nationals at the time of their nationalization by the Soviet Government as required by Section 311(b) of the aforesaid Act and the Commission has no such evidence which would assist him in meeting this prerequisite. This part of the claim based upon shares of stock must be denied.

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As to the bank account, the Commission finds that the claimant, a citizen of the United States since his naturalization on December 24, 1902, had account No. 6774 in the Moscow Branch of the Russo-Asiatic Bank with a balance of 57,515.94 rubles when it was confiscated by the Soviet Government on December 28, 1917; that the exchange rate of the ruble on December 28, 1917 was thirteen cents for one ruble; and that the claimant is entitled to an award based upon 57,515.94 rubles converted to United States dollars at the said exchange rate, and for interest from December 28, 1917 until November 16, 1933, the date of the Litvinov Assignment.

A W A R D

On the above evidence and grounds, that part of the claim based upon the bank account is allowed and an award is hereby made to JULES M. PAVITT, claimant herein, in the amount of seven thousand four hundred seventy-seven dollars and seven cents (\$7,477.07) plus interest thereon at the rate of 6% per annum from December 28, 1917 to November 16, 1933 in the amount of seven thousand one hundred twenty-five dollars and sixty-five cents (\$7,125.65). No determination is made with respect to interest from any period subsequent to November 16, 1933.

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

Dated at Washington, D. C.

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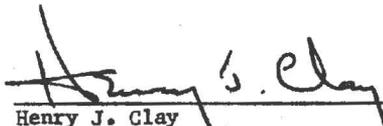
FOR THE COMMISSION:



Joseph Stein
Director, Soviet Claims Division

D I S S E N T

Commissioner Clay dissents from the proposed award recommended upon the grounds that, under established practices in settlement of international claims, bank accounts are not a proper subject of espousal and as such should not be considered here by the Commission.


Henry J. Clay
Commissioner