

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

IN THE MATTER OF THE CLAIM OF

AMERICAN TRUST COMPANY
70 Wall Street
New York 5, New York

Under the International Claims Settlement
Act of 1949, as amended

Claim No. SOV-42,528

Decision No. SOV-1999

OPC 16-72120-1

Counsel for Claimants:

CURRAN, MAHONEY, COHN & STIM
29 Broadway
New York 6, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on June 5, 1957, a certified copy of which was duly served upon the claimant. Upon request, a hearing was scheduled for September 18, 1957, at 10:00 A. M., at the office of the Commission, 7th and E Streets, N. W., Washington 25, D. C., and due notice thereof was given to the claimant. No request for a continuance was made and the claimant failed to appear in person or by attorney on the scheduled date. The objections having been fully considered, and the thirty-day period of general notice provided by posting having expired, 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.

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Whitney Willard
Paul Pace
Henry S. Clay
COMMISSIONERS

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IN THE MATTER OF THE CLAIM OF

AMERICAN TRUST COMPANY
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New York 5, New York

Claim No. SOV-42,528

Decision No. SOV-1999

Under the International Claims Settlement
Act of 1949, as amended

gpo 16-72126-1

Counsel for Claimant:

CURRAN, MAHONEY, COHN & STIM
29 Broadway
New York 6, New York

PROPOSED DECISION

This is a claim for \$3,158.44 against the Soviet Government under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended, based upon the loss sustained by the claimant as successor in interest of Emil Kiss, owner of 12,733.85 rubles on deposit with the Irving National Bank (now Irving Trust Company) which were held by said Irving National Bank in various Russian banks nationalized by the Soviet Government.

Section 305(a)(2) of the Act provides for the receipt and determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amount of claims, arising prior to November 16, 1933, of nationals of the United States against the Soviet Government.

Section 301(2) of the Act defines a "national of the United States" as "(A) a natural person who is a citizen of the United States, or who owes permanent allegiance to the United States, and (B) a corporation or other legal entity which is organized under the laws of the United States, any State or Territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly,

or indirectly, more than 50 per centum of the outstanding capital stock or other beneficial interest in such legal entity. It does not include aliens."

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 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.

The claimant alleges that this claim originally arose on November 7, 1917 in favor of Emil Kiss, a private banker, believed to be an American citizen; that Emil Kiss had on deposit with the Irving National Bank (now Irving Trust Company) the sum of 12,733.85 rubles which were held by said Irving National Bank in various Russian banks which were nationalized and the accounts repudiated by the Soviet Government; and that in 1929, the American Trust Company (formerly the Harbor State Bank) was formed and succeeded to all the assets of Emil Kiss. Claimant further alleges that at all times from the date of its inception to the presentation of the claim, more than 50% of the outstanding stock or other beneficial interests of the American Trust Company was owned by nationals of the United States except for the period between 1944 and 1949 where more than 50% of the capital stock was owned by Mexican nationals.

On the basis of the evidence and data of record, the Commission finds that the claim has not been continuously owned by a United States national from the date it arose.

In view of the foregoing, the claim is hereby denied.

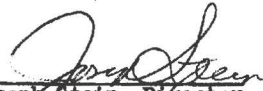
Other elements bearing upon the validity of the claim have not been considered.

Dated at Washington, D. C.

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JUN 5 1957

FOR THE COMMISSION:


Joseph Stein, Director
Soviet Claims Division