

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

IN THE MATTER OF THE CLAIM OF

LENA ROSENMAN nee KARELITZ
218 Beach 141st Street
Queens, Long Island, New York

Claim No. BUL-1,259

Decision No. BUL-238

Against the Government of Bulgaria
Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

Breed, Abbott & Morgan
1317 F Street, N. W.
Washington 4, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on May 14, 1958, a copy of which was duly served upon the claimant.

Claimant filed objections to the Proposed Decision and a brief in support thereof, and presented oral argument at a hearing held on January 8, 1959.

Claimant's contention is that in addition to the amount covered by the award made to her in the Proposed Decision by reason of her holding of 25 \$1,000 Kingdom of Bulgaria 7% bonds, she is entitled to an amount representing her pro rata share of the sums of money which would have been applied toward payment of the principal of the bonds if the Bulgarian Government had fulfilled its obligations. Claimant relies on the language of paragraph 8 of the bond contract wherein it is provided that the Government of Bulgaria shall make semi-annual payments to the American Fiscal Agents in the amount of \$168,750 to be used for the payment of coupons, and that the balance thereof, if any, shall constitute a Sinking Fund which shall be used for the redemption of the bonds by buying such bonds on the open market at or below par value. It is further provided that

balances remaining after purchases in the open market, if any, shall be used for redemption of bonds selected by drawing lots.

Evidence available to the Commission clearly indicates that the Government of Bulgaria made no Sinking Fund payments after 1932 and that subsequent to 1932 the bonds in question never sold at a price above par.

Claimant's theory is that the Government of Bulgaria breached the bond contract by not making payments towards the Sinking Fund thereby damaging claimant; that had such payments been made, claimant's bonds might have been redeemed by reason of having been drawn by lot; or at any rate, that if such a fund had accumulated, claimants would have had a right to a pro rata share of payment on account of the principal. However, no support is found for this theory.

Since the bonds were selling below par on the open market, if payments had been made to the Fiscal Agents, it would have been the duty of the American Fiscal Agents to buy up such bonds, and the likelihood that there would have been funds available for the redemption of bonds by drawing lots is extremely remote and far too speculative to sustain an award under claimant's theory. It is clear that claimant held no vested interest in any of the monies which may have been paid into the Sinking Fund.

Additionally, Section 303(3) of the Act pertains to those obligations which arose against the Government of Bulgaria prior to April 24, 1941 and became payable prior to September 15, 1947. In the instant case no payment of the principal was required to be paid under the bond contract prior to January 1, 1967.

Accordingly, 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 the claim, and it is further

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

Dated at Washington, D. C.

FEB 16 1959

Whitney Dillard
Paul Pace WB
Robert L. Kunzig DUB
COMMISSIONERS

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PROPOSED DECISION

This is a claim for thirty-six thousand three hundred seventy-five dollars (\$36,375.00) under the provisions of Section 303(3) of the International Claims Settlement Act of 1949, as amended, against the Government of Bulgaria by LENA ROSENMAN nee KARELITZ, a citizen of the United States since her naturalization on December 22, 1905, for the failure of the said government to meet its contractual obligations.

The record shows that claimant purchased, during 1926, 1935, and 1936, and presently holds twenty-five, one thousand-dollar (\$1,000) bonds of the issue known as Kingdom of Bulgaria 7% Settlement Loan 1926, due January 1, 1967, bearing numbers M0907, M1372 through M1381, M2199, M2449, M2450, M2838, M2872, M2873, M2933 through M2936, M3299 through M3301, and M3554, under the terms of which the Government of Bulgaria, as principal obligor, guaranteed to holders payment of the sum of thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000) in principal amount held, semiannually on January 1 and on July 1 of each year until the maturity date of the issue on January 1, 1967. It further appears that payment of only \$14.00 of the amount due holders thereof on July 1, 1940

was made, and that commencing with the payment which fell due on January 1, 1941, no payments on account of interest have been made to date by the Government of Bulgaria with respect to claimant's bonds.

Section 303(3) of the Act authorizes the Commission to receive and determine, among other claims, those based on the failure of the Government of Bulgaria 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 April 24, 1941, in the case of Bulgaria, and which became payable prior to September 15, 1947.

Accordingly, the Commission has concluded that any award under the above provisions of the Act may include only unpaid amounts which by the terms of the bond contracts were payable prior to September 15, 1947, and may not include any amounts which became payable thereafter. Thus, the Commission finds that from July 1, 1940 to September 15, 1947, the Government of Bulgaria failed to meet its obligations under claimant's bond contracts to make payments to her totalling twelve thousand seven hundred seventy-five dollars (\$12,775.00).

A W A R D

On the above evidence and grounds, this claim is allowed and an award is hereby made to LENA ROSENMAN nee KARELITZ, claimant herein, in the amount of twelve thousand seven hundred seventy-five dollars (\$12,775.00), plus interest thereon at the rate of 6% per annum from the respective due dates of the obligations represented by the above award to August 9, 1955, the effective date of Section 303, in the amount of eight thousand eight hundred twenty-one dollars and fifty cents (\$8,821.50).

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

Dated at Washington, D. C.

MAY 14 1958

FOR THE COMMISSION:

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

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For the reasons stated in the attached copy of the Final Decision in the Matter of the Claim of Arthur Zentler, RUM-30,044, Commissioner Clay would also include in the award, the principal amount of the obligations on which the claim is based.