

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

IN THE MATTER OF THE CLAIM OF

EUGENE AUGUSTINE BUXTON
c/o COUDERT BROTHERS
488 Madison Avenue
New York 22, New York

Claim No. CZ-3,120

Decision No. CZ-3511

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimant:

COUDERT BROTHERS
488 Madison Avenue
New York 22, New York

PROPOSED DECISION

This is a claim in the amended amount of \$396,586.34 against the Government of Czechoslovakia under Section 404 of Title IV of the International Claims Settlement Act of 1949, as amended, by EUGENE AUGUSTINE BUXTON, also known as EUGENE BUXBAUM, a national of the United States since his naturalization on April 25, 1946. The claim is based on the nationalization or other taking of claimant's property consisting of (1) real estate located at Upice, Czechoslovakia; (2) securities; (3) bank deposits; and (4) proceeds of an insurance policy.

Section 404 of the Act provides, inter alia, for the determination by the Commission, in accordance with applicable substantive law including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945 of property including any rights or interests therein owned at the time by nationals of the United States.

Section 405 of the Act provides as follows:

A claim under Section 405 of this title shall not be allowed unless the property upon which the claim is based was owned by a national of the United States on the date of nationalization or other taking thereof and unless the claim has been held by a national of the United States continuously thereafter until the date of filing with the Commission.

1. REAL ESTATE

The Commission finds that claimant was the owner of real property registered under Liber Nos. 848 and 1613 of the Cadastral District of Upice consisting of the following parcels:

Liber No. 848 - Cadastral District of Upice

Parcel No.	371/1	House No. 351
	371/2	Annex to above house, No. 475, and other structures
	371/3	Building lot with greenhouse thereon
	1253/3	Garden
	1254	Meadow

Liber No. 1613 - Cadastral District of Upice

Parcel No. 1253/42 Building lot.

The Commission further finds that the property included under Liber No. 848 was taken without compensation by the Government of Czechoslovakia pursuant to a decision of the Ministry of Industry of April 27, 1950. It is concluded that claimant is entitled to compensation for this loss under Section 404 of the Act.

The record shows that parcel No. 1253/42, recorded under Liber No. 1613, Cadastral District of Upice, was expropriated by a special decision of the District People's Committee of Trutnov of July 18, 1958 in condemnation proceedings instituted by the Government of Czechoslovakia for the purpose of using the lot for the construction of 24 housing units. The record further shows that the Government of Czechoslovakia deposited for the benefit of claimant the amount of 5,628.70 Czech crowns with the People's Court in Trutnov as compensation for this loss.

In the absence of evidence showing that the amount so paid was inadequate or that the bank deposit was taken by the Government of Czechoslovakia, the Commission holds that claimant has not sustained his burden of proof with respect to this portion of the claim. Under international law a state has fulfilled its obligation if it pays adequate compensation for the taking of property and payment may be made in the form of a bank deposit in local currency. That portion of the claim relating to parcel No. 1613 Upice is, therefore, denied.

With respect to the value of the property included under Liber No. 848, the record contains a decision of the District People's Committee of Trutnov, dated September 10, 1948, which fixed the aggregate rent for the houses, Nos. 351 and 475, at 64,680 Czech crowns per year, and photographs of house No. 351. Based upon the entire record the Commission finds that the value of the property recorded under Liber No. 848 was \$24,000.00.

2. SECURITIES

Claimant contends that he was the owner of the following securities:

1. 832 Shares of stock in Spolek pro Chemickou & Hutni Vyrobu
2. 75 Shares of stock in Skoda Works
3. 125 Shares of stock in Frank X. Brosche Syn. Akc. Spol.
4. 325 Shares of stock in Prazska Zelezarska Spolecnost
5. 512 Shares of stock in Banska & Hutni Spolecnost
6. 14 Shares of stock in Narodni Banka
7. 12 Shares of stock in Severni Drahy Ferdinandovy
8. 25 Shares of stock in Drahy Duchcov-Podmokly
9. 87 Shares of stock in Ceska Cukerni Spolecnost
10. 75 Shares of stock in Ringhoffer Zavody Ringhoffer-Tatra
11. 75 Shares of stock in Kralovodvorske Cementarny
12. 100 Shares of stock in Zivnostenska Banka
13. 50 Shares of stock in Spojewe Zavody Carborundum
14. 100 Shares of stock in Smichovsky Pivovar
15. 220 Shares of stock in Zapadoceska Zavody Kaolinove
16. 224 Shares of stock in Poldinova Hut
17. 17 Shares of Stock in Svatonovicka Banska Spolecnost
18. RM 12,000 Shares of stock in Spojene Asske Barvirny
19. 1400 Shares of stock in Medare Cechy (formerly Kupferwerke-Oesterreich).

Claimant seeks compensation for the above securities on the theory that they were annulled by the Government of Czechoslovakia under Law No. 41/1953, effective June 1, 1953.

The Commission's records disclose that all the above nineteen (19) companies were within the purview of Czechoslovak nationalization Decrees Nos. 100/1945 and 102/1945, effective October 27, 1945.

As indicated above, claimant did not become a national of the United States until April 25, 1946. In the absence of proof that the properties of said corporations were taken subsequent to that date, this portion of the claim is denied (Section 405 of the Act).

3. BANK DEPOSITS

Claimant further contends that he was the owner of the following bank deposits which had been annulled by Czechoslovak Decree No. 41/1953:

Prague Credit Bank	K. 45,701.00
Bohemian Discount Bank	37,490.60
Zivnostenska Bank	605,399.00

The evidence submitted by the claimant does not indicate that claimant had bank deposits with the Prague Credit Bank and the Bohemian Discount Bank which were annulled by the Decree No. 41/1953. Correspondence exchanged with friends and relatives in Czechoslovakia in 1946 and thereafter in which reference is made to certain deposits is not deemed to be sufficient proof of the existence in 1953 of deposits in pre-1945 currency to which the Decree No. 41/1953 referred. That part of the claim relating to deposits in the Prague Credit Bank and Bohemian Discount Bank is, therefore, denied.

On the other hand, the Commission finds that claimant had on deposit with the Zivnostenska Bank an amount of Kc. 1,065,431.20 in pre-1945 (old) currency and that such account was annulled by the aforesaid Decree No. 41/1953 which cancelled all bank deposits in old currency.

Accordingly, claimant sustained a loss of Kc. 1,065,431.20 or \$21,308.62 converted at the prevailing rate of 50 crowns for \$1. It is concluded that claimant is entitled to compensation for this loss under Section 404 of the Act.

4. PROCEEDS OF AN INSURANCE POLICY

The Commission further finds that claimant was the owner of insurance policy No. 1125854 issued by Victoria zu Berlin, with a branch in Czechoslovakia, and that the cash value of the policy on December 31, 1945 was 696,400 Czech crowns.

Czechoslovak Law No. 141/1947 ordered insurance companies to deposit into blocked accounts the December 31, 1945 cash values of life insurance policies expressed in pre-1945 currency. Section 7 of Law No. 41/1953, effective June 1, 1953, cancelled and annulled such blocked accounts without compensation including the claimant's herein.

Accordingly, the Commission concludes that claimant's loss amounted to \$13,928.00 at the rate of \$0.02 for 1 crown and that he is entitled to compensation for this loss under Section 404 of the Act.

RECAPITULATION

Summarizing, claimant is entitled to compensation under Section 404 of the Act of the following:

Property	Value	Date of Taking	6% Interest from Date of Taking to 8/8/58	Total Compensation
Houses and Land	\$ 24,000.00	4/27/50	\$ 11,923.92	\$ 35,923.92
Bank Deposits	21,308.62	6/ 1/53	6,630.60	27,939.22
Insurance policy	13,928.00	6/ 1/53	4,333.98	18,261.98
<u>TOTAL</u>	<u>\$ 59,236.62</u>		<u>\$ 22,888.50</u>	<u>\$ 82,128.12</u>

A W A R D

An award is hereby made to EUGENE AUGUSTINE BUXTON in the principal amount of Fifty-nine Thousand Two Hundred Thirty-six Dollars and Sixty-two Cents (\$59,236.62) plus interest at the rate of 6% per annum from the above specified dates of taking to August 8, 1958, the effective date of Title IV of the Act, in the amount of Twenty-two Thousand Eight Hundred Eighty-eight Dollars and Fifty Cents (\$22,888.50) for a total award of Eighty-two Thousand One Hundred Twenty-five Dollars and Twelve Cents (\$82,125.12).

Dated at Washington, D. C.

BY DIRECTION OF THE COMMISSION:

JUN 29 1962

Francis T. Masterson

Francis T. Masterson
Clerk of the Commission

THIS DECISION WAS REVIEWED AS THE COMMISSION'S
FINAL DECISION ON JUL 31 1962

Francis T. Masterson
Clerk of the Commission