

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

IN THE MATTER OF THE CLAIM OF

MARGARET STRASSER
111 Audley Street
Kew Gardens 15, New York

EVA PERL
10 Hadden Road
Scarsdale, New York

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CZ-3,246

Claim No. CZ-3,247

Decision No. CZ-3166

Counsel for Claimants:

Spaulding, Reiter and Rose
1311 G Street, N. W.
Washington 5, D. C.

and Strasser, Spiegelberg, Fried
& Frank
1700 K Street, N. W.
Washington 6, D. C.

FINAL DECISION

These claims for a total amount of \$318,095 30 by MARGARET STRASSER and EVA PERL, nationals of the United States since their naturalization on August 22, and August 31, 1944, respectively, are based upon losses assertedly sustained as a result of the nationalization or other taking by the Government of Czechoslovakia of property in which they assert interests as follows:

- I. The Czechoslovak corporation known as Spolek Pro Chemickou a Hutni Vyrobu, also known as Aussig Chemische, hereinafter referred to as "Spolek", in which claimants each owned 915 shares;
- II. Accumulated pension payments in the sum of 577,500 crowns due claimants' late father by the Czechoslovak corporation referred to in item I and its predecessor referred to as "Solo", in which each claimant asserts a one-half (1/2) interest;
- III. House No. 135 in Susice, Czechoslovakia, and accumulated rents for a period of ten (10) years, in which claimants each assert a one-half (1/2) interest; and
- IV. Other personal property (not specified).

By Proposed Decision dated March 14, 1962 the portions of the claims based upon item IV. above and the loss of rents from real property were denied for lack of proof. It was further determined

that claimants were entitled to compensation for the loss of property referred to in items I, II and III above; and that the values of each claimant's one-half (1/2) interests therein were as follows:

	<u>Value</u>
I. 915 shares of "Spolek or "Aussig" @ \$40.00 per share	\$ 36,600.00
II. One-half (1/2) interest in the pension claim	5,775.00
III. One-half (1/2) interest in House No. 135, Susice	5,000.00

The record established that claimants each received as a result of an action in New York the sums of \$2,745.00 and \$1,625.00, on account of losses sustained with respect to items I and II, respectively, which amounts were deducted in accordance with Section 407 of the Act. Accordingly, each claimant was granted an award in the principal amount of \$43,005.00 plus interest in the sum of \$29,799.88.

Copies of the Proposed Decision were duly served upon the claimants who filed objections thereto and requested a hearing on the matter.

Claimants objected to the valuation of the shares of stock (item I), the valuation of the house (item III), and requested leave to amend their claims to include under item IV, a bank account formerly owned by their late father and inherited by them in equal shares. A brief and additional evidence were submitted in support of these objections and a hearing was held on the matter on May 17, 1962, at which time further evidence was presented.

No objections were made to the findings and conclusions with respect to the awards granted for the annulment of the accumulated pension payments and the denial of the portions of the claims based on asserted losses of accumulated rents for a period of ten years. The findings and conclusions with respect to these items are hereby affirmed.

After having given due consideration to claimants' objections, the evidence submitted at the hearing and prior thereto and to the entire record, the Commission hereby grants the request to amend the claims and finds as follows:

(1) That the value of the stock of "Spolek" at the time of its nationalization on October 27, 1945 pursuant to Decree 100/1945 Sb. was \$49.00 per share; that the 915 shares owned by each claimant had a total value of \$44,835.00; that the sum of \$2,745.00 must be deducted in accordance with Section 407 of the Act; and that the claimants are entitled to compensation in the amount of \$42,090.00 based on this item;

(2) That the value of the house described in Item III at the time of its taking on January 1, 1953, was \$25,000; and that each claimant is entitled to compensation in the amount of \$12,500.00 based on this item;

(3) That claimants' each owned a one-half interest in the amount of 29,684.50 crowns on deposit with the Bohemian Discount Bank, Prague, which deposit was made on or before November 15, 1945 in the so-called "old crown" currency; that the account was annulled by the Government of Czechoslovakia pursuant to Section 7 of Law 41/53 Sb., effective June 1, 1953; that such annulment constituted a taking of property on June 1, 1953 within the meaning of the Act; and that the dollar equivalent of each claimant's one-half interest in the deposit on the date of taking, was \$296.85, converted at the official exchange rate of \$1.00 per 50 crowns prevailing on that date; and that each claimant is entitled to compensation in the amount of \$296.85 based on this item.

Recapitulation

<u>Item No.</u>	<u>Value of each Claimants' Interest</u>	<u>Date of Taking</u>	<u>Amount of Interest</u>
I	\$ 42,090.00	Oct. 27, 1945	\$ 32,275.87
II	4,150.00	Dec. 8, 1949	2,158 00
III	12,500.00	Jan 1, 1953	4,202.13
IV	296.85	June 1, 1953	92.37
<u>Totals \$ 59,036.85</u>			<u>\$ 38,728.37</u>

Accordingly, it is hereby

ORDERED that the Proposed Decision heretofore issued be and the same is hereby amended to conform with the findings and conclusions set forth herein; that as so amended the same be and it hereby is entered as the Final Decision on these claims; and that the awards be restated as follows:

A W A R D S

An award is hereby made to MARGARET STRASSER in the principal amount of Fifty-nine Thousand Thirty-six Dollars and Eighty-five Cents (\$59,036.85) plus interest in the amount of Thirty-eight Thousand Seven Hundred Twenty-eight Dollars and Thirty-seven Cents (\$38,728.37), for a total award of Ninety-seven Thousand Seven Hundred Sixty-five Dollars and Twenty-two Cents (\$97,765.22); and

an award is made to EVA PERL in the principal amount of Fifty-nine Thousand Thirty-six Dollars and Eighty-five Cents (\$59,036.85) plus interest in the amount of Thirty-eight Thousand Seven Hundred Twenty-eight Dollars and Thirty-seven Cents (\$38,728.37), for a total award of Ninety-seven Thousand Seven Hundred Sixty-five Dollars and Twenty-two Cents (\$97,765.22); and it is further

ORDERED that the awards granted herein be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

AUG 1 1962

Edward J. De
Theodore Joffe
Lavern R. Dilweg

COMMISSIONERS

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

IV. Other persons (Washington 25, D. C. filed).

In the Matter of the Claims of

MARGARET STRASSER Claim No. CZ-3,246
111 Audley Street
Kew Gardens 15, New York

EVA PERL Claim No. CZ-3,247
10 Hadden Road
Scarsdale, New York

Decision No. CZ- 3166

Under the International Claims Settlement Act of 1949, as amended

Counsel for Claimants:

Spaulding, Reiter and Rose
1311 G Street, N. W.
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and

Strasser, Spiegelberg, Fried & Frank
1700 K Street, N. W.
Washington 6, D. C.

PROPOSED DECISION

MARGARET STRASSER and EVA PERL, claimants herein, nationals of the United States by naturalization on August 22, 1944, and August 31, 1944, respectively, seek compensation in the total amount of \$318,095.30 pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended. The claims are based on the nationalization or other taking by the Government of Czechoslovakia and other publications, balance sheets and operating statements, of property acquired by the claimants, in equal shares, from their father, Ernest Furth, who died testate on January 4, 1943. The property so claimed is as follows:

I. The Czechoslovak corporation known as Spolek Pro Chemickou a Hutni Vyrobu, also known as Aussig Chemische, hereinafter referred to as "Spolek", in which claimants each owned 915 shares;

II. Accumulated pension payments in the sum of 577,500 crowns due claimants' late father by the Czechoslovak corporation referred to in item I and its predecessor referred to as "Solo", in which each claimant asserts a one-half ($\frac{1}{2}$) interest;

III. House No. 135 in Susice, Czechoslovakia, and accumulated rents for a period of ten (10) years, in which claimants each assert a one-half ($\frac{1}{2}$) interest; and

IV. Other personal property (not specified).

The Commission is authorized by Section 404 of the Act to determine in accordance with applicable substantive law, including international law, 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.

Item I - Czechoslovak Corporation

The Commission finds that claimants each owned, by acquisition from their late father, 915 shares of stock in the corporation referred to in item I; and that the property of this industrial corporation was nationalized without compensation to the stockholders by the Government of Czechoslovakia pursuant to Decree 100/1945 Sb. effective October 27, 1945. The value of these shares of stock must be ascertained.

In computing the value of the shares of stock of Czechoslovakian corporations at the time of their nationalization, it being impossible to make on-the-spot appraisals, the Commission has considered quotations on various European stock exchanges, including the quotations submitted by claimants for the Vienna and Prague exchanges for March 1945, financial data from Compass Financial Yearbooks for Czechoslovakia and other publications, balance sheets and operating statements, book values, and advice obtained from governmental and financial sources in foreign countries, as well as information provided by various claimants with respect to prices paid for the stock and its value.

On the basis of all the evidence and information available, including that submitted in the subject claims, the Commission finds that the value of stock of "Spolek" at the time of its nationalization on October 27, 1945 was \$40.00 per share; and that the value of each claimant's 915 shares of the said corporation was \$36,600.00.

It is concluded that claimants are entitled to compensation under Section 404 of the Act, for this loss.

Item II - Accumulated Pension Payments

The record establishes that claimants' late father, Ernest Furth, hereinafter called "decedent", entered into a contract in 1927 with "Spolek's" predecessor, herein called "Solo", and later extended, wherein it was agreed that upon decedent's retirement, "Solo" would pay the decedent the sum of 13,750 crowns per month until his death. Upon decedent's retirement, pension payments in the agreed amount were made from January 1, 1938, to July 1, 1939. It also appears that "Solo" merged with "Spolek" in May 1939 and that the latter assumed all obligations of the former.

For the first two months after the merger, "Spolek" paid the monthly pension. However, no further payments were made from July 1, 1939, to January 4, 1943, the date of decedent's death. The Commission finds that claimants acquired by will, a one-half ($\frac{1}{2}$) interest each in the decedent's claim for the unpaid pension. In order to protect this claim, the decedent's estate brought suit against "Spolek" in the Regional Commercial Court of Prague, action No. CK Va 8/48. "Spolek" objected to the action on the ground that the claim was "not economically justified" and reserved its rights under Paragraph 5 of Decree 100/1945 Sb. The said paragraph 5 of Decree 100/1945 Sb. provided, inter alia, that the State enterprise taking over the property of a nationalized concern assumes responsibility for its liabilities. It also provided that such State enterprise was entitled to rectify "by abolition or other suitable adjustment" obligations which were "economically unjustifiable". If no agreement could be reached, the matter would be referred to and decided by Arbitration Courts. Law 228/1946 Sb., effective November 21, 1946, implemented the provisions of the nationalization statute and established the Arbitration Tribunals.

On September 30, 1948, "Spolek" filed a petition for the arbitration of the retirement pension claim, and on December 8, 1949, the Arbitration Court held that the claim was not economically justified, and thus annulled the claim.

Item III - Real Property and Rents

The Commission has consistently held that unsecured creditor claims against nationalized Czechoslovakian corporations are not compensable within the meaning of the statute, in the absence of a showing that there has been a specific act of annulment thereof by the Government of Czechoslovakia. (Decision No. CZ-734, In the Matter of the Claim of the SKINS TRADING CORPORATION, Claim No. CZ-3,978). In the instant claim, however, the Commission finds that the annulment of the pension claim by the Arbitration Court, an official arm of the Czechoslovakian Government, constituted a taking of property within the meaning of Section 404 of the Act.

The Commission further finds that the dollar equivalent of the claim for 577,500 crowns on December 8, 1949, the date of the annulment, was \$11,550.00, converted at the exchange rate of \$0.02 per crown; and concludes that claimants are entitled to compensation for this loss.

The record contains evidence, in the nature of an Order entered in 1958 by a Justice of the Supreme Court of the State of New York, County of New York, which establishes that in the settlement of a suit against the aforesaid "Spolek", claimants received an aggregate of \$5,490.00 on account of losses sustained by virtue of their ownership of the shares of stock (item I), and \$3,250.00 on account of the pension claim (item II).

Section 407 of the Act provides as follows:

In determining the amount of any award by the Commission there shall be deducted all amounts the claimant has received from any source on account of the same loss or losses with respect to which such award is made.

The Commission finds, therefore, that the aforesaid amounts in which claimants shared equally, should be deducted from the value established herein for the said items (I) and (II). On this basis,

the net amount of compensation which each claimant is now entitled to receive for her interests in items (I) and (II) are \$33,855.00 and \$4,150.00, respectively, plus appropriate interest.

Item III - Real Property and Rents

The Commission finds that claimants each owned, by acquisition from their late father, a one-half ($\frac{1}{2}$) interest in the real property described hereinafter; that ownership of the property was transferred under duress during the occupation of Czechoslovakia by the German forces; and that upon petition of claimants, restitution was granted by Czechoslovakian authorities on January 19, 1948. There is no evidence in the record to establish an official act of nationalization or other taking of this property by the Government of Czechoslovakia thereafter.

The record does disclose, however, that the subject property had a rental income in excess of 15,000 crowns per year. The amount of such income finally agreed upon after several conferences with governmental sources by claimants' representative was 16,400 crowns per year in 1953. This amount, however, appears to be less than the rental income previously derived from the building. In any event, the structure came within the purview of Czechoslovakian Law 80/1952 Sb., effective January 1, 1953. That law imposed such severe restrictions upon the owner of property renting for 15,000 crowns per year or more, that it amounted to an almost complete destruction of the incidents of ownership. The Commission has, therefore, held that in the absence of evidence to the contrary, such structures may be considered to have been constructively taken on January 1, 1953, despite the fact that record title remained undisturbed. Accordingly, the Commission finds that the subject real property was taken without compensation by the Government of Czechoslovakia on January 1, 1953.

Claimants assert that the total value of this house was \$40,000.00, and that the loss of rental income for a period of ten years amounted to \$9,000.00. Thus, they assert a total loss in the amount of \$49,000.00, or \$24,500.00 each, with respect to this item. In support of the value of the house, claimants have submitted the affidavit of one Anthony F. Lucas, who states that he has personal knowledge that the house had a value of \$40,000.00. They have also submitted a copy of the translation of a letter dated November 6, 1945, written to Dr. Paul Edwards in New York by a Dr. Culik of Prague, in which it is stated that he had reported (apparently to the appropriate Czechoslovakian authorities) that the value of the house was 2,000,000 crowns. It is to be noted that the original letter in the Czech language was not submitted, claimants stating that it was not now available. Claimants assert that at the exchange rate prevailing on November 6, 1945, the value would have been \$50,000.00; and allowing for ordinary depreciation to January 1, 1953, the value was then \$40,000.00.

The record also contains evidence submitted by claimants which discloses that during the probate proceedings the value was set at 170,000 crowns, which value was rejected by the Czechoslovakian probate officials as too low. Thereafter, it appears that claimants and the Czechoslovakian authorities agreed upon a value of 400,000 crowns for the purpose of inheritance as of the time of the death of claimants' father in 1943. The prevailing exchange rate in 1943 was \$0.025 per crown. Thus, in dollars the value was declared to have been \$10,000.00.

After consideration of all of the available evidence, the Commission finds that the total value of the subject house at the time of taking was \$10,000.00 or \$5,000.00 for each claimant's one-half ($\frac{1}{2}$) interest therein.

and an award is made to EVA PERL in the principal amount of Forty-three Thousand Five Dollars (\$43,005.00) as follows: \$33,855.00 for the shares of stock, \$5,000.00 for the real property and \$4,150.00 for the pension claim, plus interest thereon at the rate of 6% per annum from the respective dates of taking to August 8, 1958, the effective date of Title IV of the Act, in the amounts of \$25,961.03, \$1,680.85 and \$2,158.00, respectively, for a total award of Seventy-two thousand Eight Hundred Four Dollars and Eighty-eight Cents (\$72,804.88).

Dated at Washington, D. C.

MAR 14 1962

BY DIRECTION OF THE COMMISSION:



Francis T. Masterson
Clerk of the Commission

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

IN THE MATTER OF THE CLAIM OF

MARGARET STRASSER
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Under the International Claims Settlement
Act of 1949, as amended

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FINAL DECISION

These claims for a total amount of \$318,095 30 by MARGARET STRASSER and EVA PERL, nationals of the United States since their naturalization on August 22, and August 31, 1944, respectively, are based upon losses assertedly sustained as a result of the nationalization or other taking by the Government of Czechoslovakia of property in which they assert interests as follows:

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- II. Accumulated pension payments in the sum of 577,500 crowns due claimants' late father by the Czechoslovak corporation referred to in item I and its predecessor referred to as "Solo", in which each claimant asserts a one-half (1/2) interest;
- III. House No. 135 in Susice, Czechoslovakia, and accumulated rents for a period of ten (10) years, in which claimants each assert a one-half (1/2) interest; and
- IV. Other personal property (not specified).

By Proposed Decision dated March 14, 1962 the portions of the claims based upon item IV above and the loss of rents from real property were denied for lack of proof. It was further determined

that claimants were entitled to compensation for the loss of property referred to in items I, II and II above; and that the values of each claimant's one-half (1/2) interests therein were as follows:

	<u>Value</u>
I. 915 shares of "Spolek or "Aussig" @ \$40.00 per share	\$ 36,600.00
II. One-half (1/2) interest in the pension claim	5,775.00
III. One-half (1/2) interest in House No. 135, Susice	5,000.00

The record established that claimants each received as a result of an action in New York the sums of \$2,745.00 and \$1,625.00, on account of losses sustained with respect to items I and II, respectively, which amounts were deducted in accordance with Section 407 of the Act. Accordingly, each claimant was granted an award in the principal amount of \$43,005.00 plus interest in the sum of \$29,799.88.

Copies of the Proposed Decision were duly served upon the claimants who filed objections thereto and requested a hearing on the matter.

Claimants objected to the valuation of the shares of stock (item I), the valuation of the house (item III), and requested leave to amend their claims to include under item IV, a bank account formerly owned by their late father and inherited by them in equal shares. A brief and additional evidence were submitted in support of these objections and a hearing was held on the matter on May 17, 1962, at which time further evidence was presented.

No objections were made to the findings and conclusions with respect to the awards granted for the annulment of the accumulated pension payments and the denial of the portions of the claims based on asserted losses of accumulated rents for a period of ten years. The findings and conclusions with respect to these items are hereby affirmed.

After having given due consideration to claimants' objections, the evidence submitted at the hearing and prior thereto and to the entire record, the Commission hereby grants the request to amend the claims and finds as follows:

(1) That the value of the stock of "Spolek" at the time of its nationalization on October 27, 1945 pursuant to Decree 100/1945 Sb. was \$49.00 per share; that the 915 shares owned by each claimant had a total value of \$44,835.00; that the sum of \$2,745.00 must be deducted in accordance with Section 407 of the Act; and that the claimants are entitled to compensation in the amount of \$42,090.00 based on this item;

(2) That the value of the house described in Item III at the time of its taking on January 1, 1953, was \$25,000; and that each claimant is entitled to compensation in the amount of \$12,500.00 based on this item;

(3) That claimants' each owned a one-half interest in the amount of 29,684.50 crowns on deposit with the Bohemian Discount Bank, Prague, which deposit was made on or before November 15, 1945 in the so-called "old crown" currency; that the account was annulled by the Government of Czechoslovakia pursuant to Section 7 of Law 41/53 Sb., effective June 1, 1953; that such annulment constituted a taking of property on June 1, 1953 within the meaning of the Act; and that the dollar equivalent of each claimant's one-half interest in the deposit on the date of taking, was \$296.85, converted at the official exchange rate of \$1.00 per 50 crowns prevailing on that date; and that each claimant is entitled to compensation in the amount of \$296.85 based on this item.

Recapitulation

<u>Item No.</u>	<u>Value of each Claimants' Interest</u>	<u>Date of Taking</u>	<u>Amount of Interest</u>
I	\$ 42,090.00	Oct. 27, 1945	\$ 32,275.87
II	4,150.00	Dec. 8, 1949	2,158 00
III	12,500.00	Jan 1, 1953	4,202.13
IV	296.85	June 1, 1953	92.37
<u>Totals \$ 59,036.85</u>			<u>\$ 38,728.37</u>

Accordingly, it is hereby

ORDERED that the Proposed Decision heretofore issued be and the same is hereby amended to conform with the findings and conclusions set forth herein; that as so amended the same be and it hereby is entered as the Final Decision on these claims; and that the awards be restated as follows:

A W A R D S

An award is hereby made to MARGARET STRASSER in the principal amount of Fifty-nine Thousand Thirty-six Dollars and Eighty-five Cents (\$59,036.85) plus interest in the amount of Thirty-eight Thousand Seven Hundred Twenty-eight Dollars and Thirty-seven Cents (\$38,728.37), for a total award of Ninety-seven Thousand Seven Hundred Sixty-five Dollars and Twenty-two Cents (\$97,765.22); and

an award is made to EVA PERL in the principal amount of Fifty-nine Thousand Thirty-six Dollars and Eighty-five Cents (\$59,036.85) plus interest in the amount of Thirty-eight Thousand Seven Hundred Twenty-eight Dollars and Thirty-seven Cents (\$38,728.37), for a total award of Ninety-seven Thousand Seven Hundred Sixty-five Dollars and Twenty-two Cents (\$97,765.22); and it is further

ORDERED that the awards granted herein be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

AUG 1 1962

*Edward S. Mc
Theodore J.
Lavern R. Dilweg*

COMMISSIONERS