

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

IN THE MATTER OF THE CLAIM OF

JOHN M. PARATO
4224 North Grand Boulevard
St. Louis, Missouri

Claim No. IT-10,054

Decision No. IT-940

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

Counsel for Claimant:

ROBERT S. MOSS, Esquire
821 Fifteenth Street, N. W.
Washington 5, D. C.

FINAL DECISION

A timely claim was filed herein by John M. Parato, a national of the United States since his birth on May 15, 1901, against the Government of Italy, in the amount of \$342,623.23, pursuant to the provisions of Section 304 of the International Claims Settlement Act of 1949, as amended. The claim was based in part upon the loss of use of certain real and personal property located at the Igea Clinic, 14 Via Leonardo da Vinci, Asmara, Eritrea, Africa, from about January 15, 1941, until April 1, 1945. Further, claim was asserted for loss of and damage to furniture, medical equipment, linens and other items of personalty located in the clinic. Lastly, claimant asserted a claim for interest on the amount of such losses from March 1, 1945, to the date of filing this claim.

The Commission issued its Proposed Decision on this claim on April 13, 1959, a copy of which was duly served upon the claimant. An award was made therein in the amount of \$6,200.00, plus interest from the date of loss in the amount of \$2,625.70, which the Commission determined therein to be the fair value of personal property used in the clinic but which was lost as a result of Italian occupation occurring on or about March 31, 1941. Thereafter, objections to the Proposed Decision were filed with the Commission on May 4, 1959. A hearing was held on this matter in the offices of this Commission on May 19, 1959.

Full consideration having been given to the objections of claimant and to the evidence and arguments, presented at the hearing by counsel for claimant, and general notice of the Proposed Decision having been given by posting for thirty days, the Commission hereby affirms the amount of the aforementioned award, as set forth in the Proposed Decision, dated April 13, 1959, more particularly as hereinafter set forth.

Section 304 of the Act provides, in pertinent part, for the receipt and determination by the Commission, in accordance with the Memorandum of Understanding with Italy and applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Italy, arising out of the war in which Italy was engaged from June 10, 1940 to September 15, 1947, and with respect to which provision was not made in the Treaty of Peace with Italy.

The evidence of record in this claim indicates that the real and personal property described above were requisitioned on or about January 15, 1941 by the Government of Eritrea, a territorial government of Italy, and that under the orders of requisition the Government of Eritrea continued in possession of the premises until about March 31, 1941, during which time it paid claimant a fixed rental for the use of the properties and for claimant's loss of income. The record indicates that on or about April 1, 1941 the forces of Great Britain entered Asmara, Eritrea, and assumed control of the Igea Clinic and that the British forces were in control of the clinic thereafter until their occupation of the area ended following the cessation of hostilities of World War II.

The Commission hereby affirms its finding, as set forth in the Proposed Decision, that the pertinent provisions of Section 304 of the Act relate to actions of the Government of Italy and such provisions have no force or effect over acts or failures to act which are chargeable to other governments, such as the Government of Great Britain. The evidence in this claim indicates that the control and operation of Igea Clinic by the Government of Eritrea ceased on March 31, 1941, and the forces of Great Britain assumed control of the clinic on or about April 1, 1941. Accordingly, claims asserted herein for loss of or damage to property, loss of use, earnings or interest on the amount of such losses, arising subsequent to March 31, 1941, when the Italian occupation of the premises ceased, must be, and are, hereby denied.

With respect to the claim for loss of use or earnings from January 15, 1941 to March 31, 1941, asserted against the Government of Italy, for the period of their occupation of the premises of the clinic, the Commission finds that said government reimbursed claimant herein by payment of a fixed rental which was computed by the Government of Eritrea to include such losses. Accordingly, this portion of the instant claim is also denied.

With respect to the loss of or damage to the personal property located in the clinic, the Commission finds that claimant has not established the value of such property or the extent of the losses which were incurred during the Italian occupation of the premises. However, the Commission, not being bound by the usual rules of evidence, is persuaded that the claimant did own personal property, located in the said clinic, which was taken or destroyed by the forces of the Government of Italy on or about March 31, 1941, within the meaning of Section 304 of the Act. Denial of this portion of the claim for lack of full corroboration under such circumstances would not, in the opinion of the Commission, be an act of justice. On the other hand, the absence of reliable evidence precludes compensation in the full amount claimed for such losses.

Accordingly, the Commission affirms its finding with respect to the loss of personal property, as set forth in the Proposed Decision, and finds that the value of the personal property taken or destroyed by the Government of Italy was \$6,200.00. Further, the Commission finds that claimant is entitled to interest thereon, in the amount of \$2,625.70, being 6% per annum from March 31, 1941, the date of loss, to April 23, 1948, the date of payment by the Government of Italy of \$5,000,000 pursuant to the Memorandum of Understanding dated August 14, 1947; and it is

ORDERED that such Proposed Decision, as adopted and stated herein, be entered as the Final Decision on the claim, and it is further

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

Dated at Washington, D. C.

JUN 29 1959

Whitney Hilliland

Paul Pace

Robert L. Kunzig

COMMISSIONERS

Luigi -
[Signature]
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FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

JOHN M. PARATO
4224 North Grand Boulevard
St. Louis, Missouri

Claim No. IT-10,054

Decision No. IT- 940

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

Counsel for Claimant:

ROBERT S. MOSS, Esquire
821 Fifteenth Street, N. W.
Washington 5, D. C.

PROPOSED DECISION

This is a claim against the Government of Italy under Section 304 of the International Claims Settlement Act of 1949, as amended, for \$342,623.23 by John M. Parato, a national of the United States since his birth on May 15, 1901. The claim is based in part upon the loss of use of certain real property, described as the Igea Clinic, 15 Via Leonardo da Vinci, Asmara, Eritrea, Africa, from about January 15, 1941 until about April 1, 1945. Further, claim is asserted for loss of and damage to furniture, medical equipment, linens and other items of personal property located in the aforesaid clinic. Lastly, claimant asserts a claim for interest on the amount of such losses from March 1, 1945 to the date of filing this claim.

Section 304 of the Act provides for the receipt and determination by the Commission, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, of the validity and amounts of claims of nationals

of the United States against the Government of Italy, arising out of the war in which Italy was engaged from June 10, 1940 to September 15, 1947, and with respect to which provision was not made in the Treaty of Peace with Italy.

The evidence of record indicates that the real and personal property described above were requisitioned on or about January 15, 1941 by the Government of Eritrea, a territorial government of Italy, and that under the orders of requisition the Government of Italy continued in possession of the premises until about March 31, 1941, during which time the Government of Italy paid claimant a fixed rental for the use of the properties. The record also indicates that the forces of Great Britain entered Asmara, Eritrea, and assumed control of the Igea Clinic on or about April 1, 1941, and that these forces were in control of the clinic thereafter until their occupation of the area ceased following the cessation of hostilities of World War II.

The Commission finds that the pertinent provisions of Section 304 of the Act relate to actions of the Government of Italy and such provisions have no force or effect over acts or failures to act which are chargeable to other governments, such as the Government of Great Britain. In this claim, the control and operation of Igea Clinic by the Government of Italy ceased on March 31, 1941, and the forces of Great Britain assumed command of the clinic on or about April 1, 1941. Accordingly, this claim is denied for any losses asserted herein which arose subsequent to March 31, 1941, when the Italian occupation of the premises ceased.

With respect to the claim for loss of use of the clinic as well as the loss of earnings, the Commission finds that to

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the extent that the Government of Italy may have been responsible for such losses said claims are not compensable under the pertinent provisions of the Act. No claim was asserted for damage to the real property.

The Commission has concluded that the term " . . . with respect to which provision was not made in the Treaty of Peace with Italy . . . " is to be construed as extending solely to war damage claims of the type covered by the Treaty of Peace occurring in areas outside of Italy but to include only such other claims as arise under the general principles of international law. The Act does not contemplate the settlement of speculative claims for loss of use or earnings which necessarily arise as a consequence of legitimate acts of war between nations and involve no violation of the principles of international law. Accordingly, the portions of the claim for loss of use or earnings against the Government of Italy are hereby denied.

With respect to the loss of or damage to the personal property located in the clinic, the Commission finds that claimant has not established the value of such property or the extent of the losses which were incurred during the Italian occupation of the premises. However, the Commission, not being bound by the usual rules of evidence, is persuaded that the claimant did own personal property, located in the said clinic, which was taken or destroyed by the forces of the Government of Italy on or about March 31, 1941, within the meaning of Section 304 of the Act. Denial of this portion of the claim for lack of full corroboration under such circumstances would not, in the opinion of the Commission, be an act of justice. On the other hand, the absence of reliable evidence precludes compensation in the full amount claimed for

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such losses. Accordingly, the Commission finds that the value of the personal property taken or destroyed by the Government of Italy was \$6,200.00 and concludes that the claimant is entitled to an award under Section 304 of the Act for such losses.

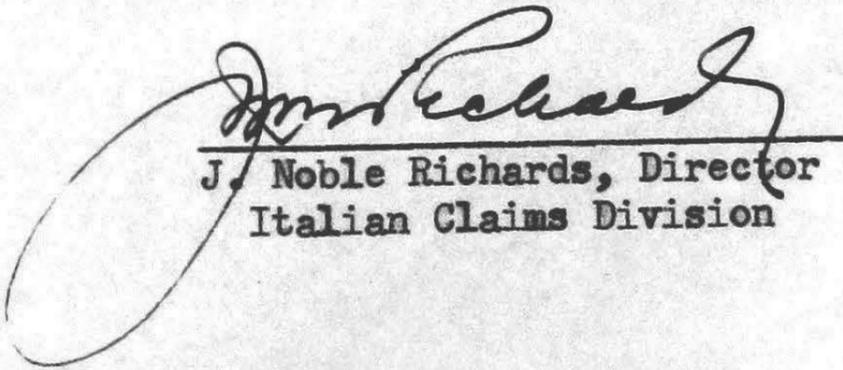
A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, this claim is allowed in part and an award is hereby made to John M. Parato in the amount of \$6,200.00 plus interest in the amount of \$2,625.70, being 6% per annum from March 31, 1941, the date of loss, to April 23, 1948, the date of payment by the Government of Italy of \$5,000,000 pursuant to the Memorandum of Understanding dated August 14, 1947.

Dated at Washington, D. C.

APR 13 1959

FOR THE COMMISSION:


J. Noble Richards, Director
Italian Claims Division

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