

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

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IN THE MATTER OF THE CLAIM OF

GEORGIO ENRICO PADOVANO
5507 Brite Drive
Bethesda, Maryland

Claim No. IT-10,252

Decision No. IT-62-2

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

Counsel for Claimant:

EDWARD L. MERRIGAN, Esquire
425 - 13th Street, N. W.
Washington 4, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on July 7, 1959, a certified copy of which was duly served upon the claimant. No objections or request for a hearing having been filed within ten days after such service and general notice of the Proposed Decision having been given by posting for ten days, 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.

JUL 24 1959

Whitney Gilliland
Pearl Pace
Robert L. Kunzig

COMMISSIONERS

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PROPOSED DECISION

This timely filed claim is before the Commission by virtue of an amendment to Section 304 of the International Claims Settlement Act of 1949, as amended, pursuant to Section 2, Public Law 85-604. The claim is asserted in the total amount of \$22,673.75 for losses incurred when the Adriatic di Sicurta, Rome, Italy, an insurance company, dismissed claimant on January 25, 1939, from his executive position in the Rome Office because of alleged Fascist discriminatory measures directed against persons of the Jewish faith. Further, claim is asserted for those expenses incurred by claimant " . . . to emigrate to the United States to avoid persecution and possible death such as was suffered by others of his religion during the war in Italy and by reason of the German occupation of Italy and damages sustained by reason of confiscatory discriminatory acts of the Italian Government".

Prior to amendment at the 2d Session of the 85th Congress,
Section 304 was as follows:

The Commission shall receive and determine, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, the validity and amount 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 record indicated that claimant herein became a citizen of the United States on September 6, 1945, having arrived in New York City from Italy in April 1939, with his wife, Anna. The claim was denied previously in Proposed Decision dated January 16, 1957, for the reason that claimant was not a national of the United States at the time the claim arose. A Final Decision was issued on May 8, 1957 on this claim and on May 23, 1957, a Supplemental Decision was issued by the Commission in further detail concerning the grounds for denial of the claim. Since claimant was not eligible for compensation under the Act in the aforementioned respect, other elements of the claim were not considered by the Commission, nor was it required to make such determinations.

On August 8, 1958, the following amendment to Section 304 (Section 2, Public Law 85-604, 72 Stat. 531) was approved:

Section 304 of the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof the following: "Upon payment of the principal amounts (without interest) of all awards from the Italian Claims Fund created pursuant to Section 302 of this Act, the Commission shall determine the validity and amount of any claim under this section by any natural person who was a citizen of the United States on the date of enactment of this title and shall, in the event an award is issued pursuant to such claim, certify the same to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund . . . "

With respect to the set of facts presented by the instant claim, the Commission finds that Public Law 85-604 has removed the nationality requirement previously discussed herein, namely, that claimant be a national of the United States on the date that the claim arose. This

conclusion is based more particularly on the following language employed in Public Law 85-604, relating that " . . . the Commission shall determine the validity and amount of any claim under this Section by any natural person who was a citizen of the United States on the date of enactment of this title . . . "

However, this amendment to Section 304 of the Act refers to the eligibility of all of those claimants who became nationals of the United States prior to enactment of the Act, August 9, 1955, and to residual benefits in the Italian claims fund in the event that an award is made upon the merits of their respective claims. Such amendment to Section 304 of the Act does not remove other requirements expressed therein concerning eligibility of claimants, expressed by Section 304 as follows:

. . . the validity and amount 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 question before the Commission is whether the loss of employment and expenses of immigration to the United States, both occurring prior to Italy's entry into the war, are claims which are properly within the contemplation of Section 304 of the Act, as set forth hereinbefore.

The Commission finds that the discriminatory acts inflicted upon the claimant and others of the Jewish faith, while reprehensible in nature, do not appear to be actions " . . . arising out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947 . . . " Such incidents began in a period when the Fascist Government of Italy was rising to power and its actions and directives include a wide variety of similar miscarriages of justice. However, Section 304 refers to wartime activities of that government and the instant claim is only remotely connected therewith

both with respect to date of occurrence and nature of the wrongs involved.

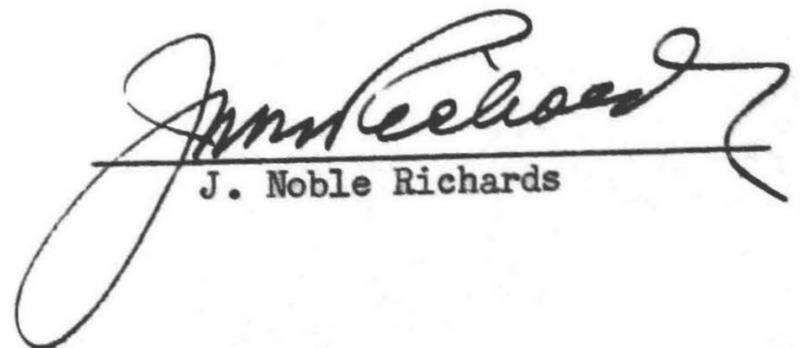
Claimant has asserted a claim which is based upon the persecution of claimant's parents in Italy and events connected therewith, arising during the war in Italy. The evidence of record indicates that claimant left Italy in 1939. The Commission finds that claimant cannot avail himself of remedies, if any, which might be available to his parents. Again, such claims are not within the contemplation of Section 304 of the Act.

Accordingly, this claim must be and is hereby denied. The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, D. C.

FOR THE COMMISSION:

JUL 7 1959


J. Noble Richards

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IN THE MATTER OF THE CLAIM OF

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5507 Brite Drive
Bethesda, Maryland

Claim No. IT-10,252

Decision No. IT-62

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Attorney for Claimant:

WEIL, GOTSCHAL & MANGES
Attorneys at Law
425 13th Street, N.W.
Washington 4, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on January 16, 1957, a certified copy of which was duly served upon the claimant. Full consideration having been given to the objections and the evidence and arguments presented at a hearing held on April 10, 1957, and 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 this claim.

Washington 25, D. C.

MAY 8 1957

Whitney Gulliland
Henry S. Clay

COMMISSIONERS

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

In the Matter of the Claim of

GIORGIO ENRICO PADOVANO
5507 Brite Drive
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Claim No. IT-10,252

Decision No. It-62

Under Section 304 of the International
Claims Settlement Act of 1949, as amended

Attorney for Claimant:

Weil, Gotshal & Manges
Attorneys at Law
425 - 13th Street, N.W.
Washington 4, 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.

Section 304 of the aforesaid 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 claimant herein alleges that he became a citizen of the United States on September 6, 1945, in New York, New York; that he suffered a loss of salary or wages beginning January, 1939; and that he emigrated from Italy to the United States in April, 1939.

Under a well established principle of international law, eligibility for compensation requires that the property, loss, right, or chose in action which was the subject of the 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 or nationals.

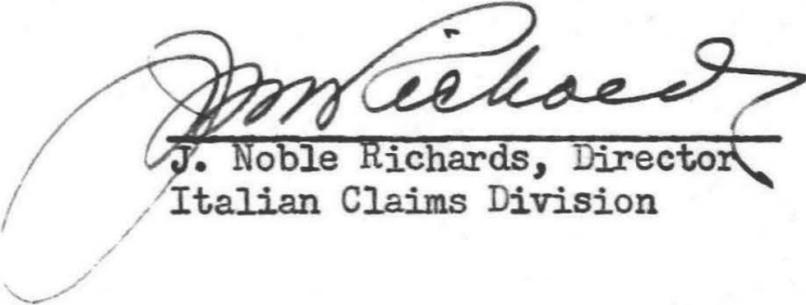
The Commission's records disclose that the claimant was not a national of the United States at the time the loss occurred.

For the foregoing reason, the claim must be, and is hereby, denied. Other elements bearing upon eligibility have not been considered.

Dated at Washington, D. C.

JAN 16 1957

FOR THE COMMISSION:


J. Noble Richards, Director
Italian Claims Division