

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

VERA A. HOCH

Claim No. CN- 0027

Decision No. CN- 114

Under Title V of the International Claims Settlement Act of 1949, as amended by Public Law 89-780

PROPOSED DECISION

This claim, for \$800.00 against the Chinese Communist regime, under Title V of the International Claims Settlement Act of 1949, as amended, is based upon an asserted debt of an enterprise nationalized by the Chinese Communist regime. Claimant, VERA A. HOCH, has been a national of the United States since her naturalization on May 16, 1961.

Under Title V of the International Claims Settlement Act of 1949, [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended by 80 Stat. 1365 (1966)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Chinese Communist regime arising since October 1, 1949 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

Claimant also filed a claim under the War Claims Act of 1948, as amended by Public Law 87-846 (Claim No. W-508). In that claim, the Commission granted a consolidated award to claimant and her two children for personal property losses suffered by her husband during World War II as a direct consequence of Japanese military operations of war. That file has been associated with the present claim for reference.

The Commission appreciates the fact that there may be instances wherein primary evidence in support of a claim may not be available due to its loss or destruction during ensuing years between the taking of claimants' property and the enactment of Title V of the International Claims Settlement Act of 1949, as amended. Also, the Commission notes that due to the political conditions which now exist in Communist China claimants have no access to the primary evidence which is obtainable only in said country. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took the property of nationals of the United States. In the absence of said decrees, laws and orders the Commission will examine the specific actions of the Chinese Communist regime which resulted in claimants' loss of their property. Accordingly, when claimants have established a sufficient basis for the unavailability of primary evidence, the Commission may accept and consider secondary evidence.

The evidence of record here does not include any copy of a Chinese Communist decree, law or order and the Commission agrees that such are unobtainable in this case. The record does include an agreement of

claimant's husband, dated February 12, 1953; a third party affidavit, correspondence and claimant's statements concerning the loss of the property. The Commission deems such evidence as sufficient in this case.

Based upon the entire record, it appears that Roy John Hoch, claimant's husband, a national of the United States since his birth on June 15, 1892, was president of the American Legion in Tientsin, China. The said American Legion Post operated a Sweepstake for the benefit of indigent Chinese and the sale and distribution of the tickets were handled through an exchange shop. In 1953 said exchange shop sued claimant's husband for an outstanding debt of \$800.00. Since the assets of the American Legion Post had already been nationalized by the Chinese Communist regime, claimant's husband was forced to pay this amount from his personal account. Mr. Hoch died on September 7, 1961 and claimant succeeded to his interest in the claim.

Claimant is unable to give the exact date on which the property of the American Legion Post was taken by the Chinese Communist regime. The Commission's records reflect the occupation of Tientsin by Chinese Communist forces in January 1949. The Commission further finds that, under these circumstances and in the absence of evidence to the contrary, the American Legion Post in Tientsin lost all control, use and enjoyment of its property through actions taken by or under the authority of the Chinese Communist regime on October 1, 1949, the date on which the Chinese Communist regime was proclaimed and the initial date of the period encompassed under Title V.

The Commission concludes that under the facts of this particular file claimant suffered a loss in the amount of \$800.00 within the meaning of Title V of the Act as a result of the nationalization of the property of the American Legion Post in Tientsin.

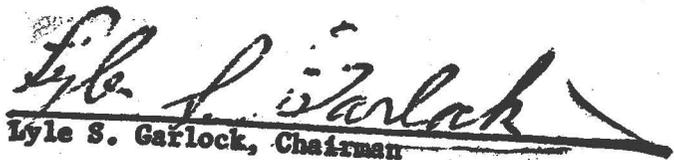
The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Clarence Burton Day and Ethelwyn C. Day, Claim No. CN-0030, Decision No. CN-001); and in the instant claim it is so ordered.

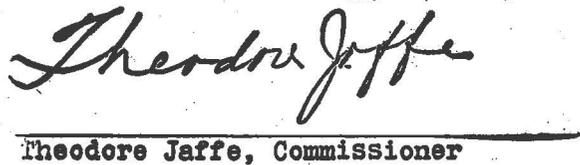
CERTIFICATION OF LOSS

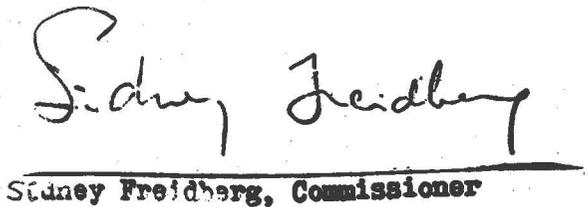
The Commission certifies that VERA A. HOCH suffered a loss in the amount of Eight Hundred Dollars (\$800.00) with interest thereon at 6% per annum from October 1, 1949 to the date of settlement, as a result of the actions of the Chinese Communist regime within the scope of Title V of the International Claims Settlement Act of 1949, as amended.

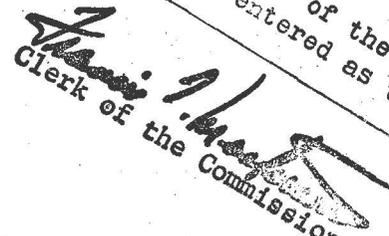
Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAR 4 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

CERTIFICATION
This is a true and correct copy of the decision of the Commission which was entered as the final decision on 15 APR 1970

Clerk of the Commission

The statute does not provide for the payment of claims against the Chinese Communist regime. Provision is made only for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. §531.6(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)