

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

IN THE MATTER OF THE CLAIM OF

JOSEPH DAVIS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-207

Decision No. HUNG-2-017

Counsel for Claimant:

James Francis Lawler, Esquire

Appeal and objection from a Proposed Decision entered on April 23, 1975. No Oral Hearing Requested.

Hearing on the Record held on

7 JUL 1976

FINAL DECISION

This claim for \$555,000.00 is based upon the asserted ownership and loss of certain improved real property in Bilky (formerly known as Bilke), identified as a bank building with living quarters, the assets and equipment of such bank, unidentified jewelry and furniture at the same address, and 300 acres of forest in the vicinity of Bilky, an area which is located in the U.S.S.R. The claimant, JOSEPH DAVIS, stated that he has been a national of the United States since his naturalization on April 8, 1952.

The claim was denied by Proposed Decision, dated April 23, 1975, for the reason that since the property involved in this claim is situated in Bilky, a locality which is and was between August 9, 1955, and March 6, 1973, within the boundaries of the Union of Soviet Socialist Republics, it would not have been taken by the Government of Hungary as required for compensation under subsection 303(5), Title III of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955), 22 U.S.C. §§ 1641-1641q (1971)), as further amended by subsection (3) of Public Law 93-460, approved October 20, 1974, (88 Stat. 1386 (1974)).

The claimant filed objections to the Proposed Decision and argues as follows:

1. It is unfair to disqualify the claim because the claimant had no knowledge of the First Hungarian Claims Program;

2. It is unconstitutional to allow a recovery in the present program to a person who failed to qualify for the prior claims program, unless all claimants, who missed the prior claims program, are granted the right to present their claims under the existing program;

3. It is unconstitutional to permit one claimant to qualify for a loss which occurred prior to August 9, 1955, under subsection 306(d) of the Act.

Subsequently, on May 15, 1975, the claimant filed a second Statement of Claim for loss of property assertedly inherited from his late father, Fishel Davidovic, and his brothers, Hermann Davidovic and Samuel Davidovic.

The property, for the loss of which the additional claim is made, is identified as follows:

a. An account with a balance of \$150,000.00 with the Magyar Altalános Hitelbank (Hungarian General Credit Bank), a banking institution with its main office in Budapest, Hungary;

b. A seven room villa and lumberyard in Velky Sevljus (formerly Nagyszöllös), a locality which is and was between August 9, 1955, and March 6, 1973, within the borders of the U.S.S.R.; and

c. A four room dwelling house and an export-import hide business with office and warehouse in Bilky.

In order to have a compensable claim under subsection 303(5) of the Act, governing the present Hungarian Claims Program, or for that matter under subsection 303(2) of the Act, the statutory provision under which the prior Hungarian Claims Program was administered, the claimant has to establish, among other things, that (1) his property was nationalized, compulsorily liquidated, or otherwise taken in Hungary by the Government of that country (2) on a date when such property was owned by a national of the United States.

The claimant has failed to establish that any of the property involved in this claim was nationalized, compulsorily liquidated, or otherwise taken by the Government of Hungary between April 8, 1952,

the date when he, the asserted owner, acquired nationality of the United States by naturalization, and March 6, 1973, the date of the Hungarian Claims Agreement. Since Bilky and Velky Sevljus were within the boundaries of the U.S.S.R. during the period mentioned, to establish a loss, attributable to the Government of Hungary is clearly impossible.

Although by no means it is established that the claimant or his late father and asserted predecessor in interest had an account with the Magyar Altalános Hitelbank with a balance of \$150,000.00, this portion of the claim requires a special consideration.

A research of the Hungarian laws and statutes show that by Decree 13,110/1948 Korm. the Hungarian Government imposed practically a complete bar (with a few exceptions not applicable to this claim) to all money claims which originated prior to August 1, 1946, regardless of the fact that the amount payable was specified in "gold" pengő, "tax" pengő, foreign currency, or the money equivalent of grain or other commodity. The Commission finds that the prohibition to bring action for the judicial enforcement of money claims, which prohibition has not been lifted to date, amounted to a taking of any deposits the claimant may have had with the Magyar Altalános Hitelbank as of December 24, 1948, the date when Decree 13,110/1948 Korm. entered into force.

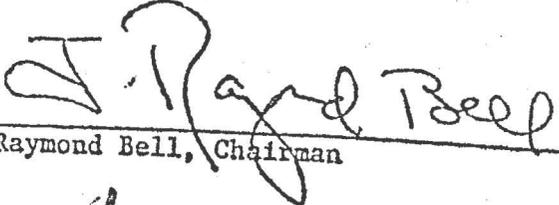
In view of the foregoing, the Commission concludes that the claimant has failed to establish a compensable claim, even if his claim would be considered under subsection 306(d) of the Act, supra, the conditions of which are by no means present, because (1) he failed to establish that any property situated in Bilky and Velky Sevljus was nationalized, compulsorily liquidated, or otherwise taken by the Government of Hungary between April 8, 1952, and March 6, 1973, and (2) the account with the Magyar Altalános Hitelbank, if the claimant owned such, was taken by the Government of Hungary on December 24, 1948, a date when the claimant, the asserted owner, was not a national of the United States as required for compensation.

Accordingly, the Proposed Decision of April 23, 1975, must be affirmed and it is hereby affirmed and the claim is denied.

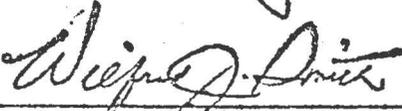
The Commission finds it unnecessary to make determinations with respect to other elements of this claim and the arguments made in the claimant's objections which, in view of the foregoing, would not establish a compensable claim even if accepted as correct.

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

7 JUL 1976



J. Raymond Bell, Chairman



Wilfred J. Smith, Commissioner

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WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

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Under the International Claims Settlement
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Claim No. HUNG-2-207

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PROPOSED DECISION

This claim, for \$555,000.00, is based upon the asserted ownership and loss of certain improved real property in Bilky (formerly known as Bilke), identified as a bank building with living quarters, the assets and equipment of such bank, unidentified jewelry and furniture at the same address, and 300 acres of forest in the vicinity of Bilky, an area which is located in the U.S.S.R. The claimant, JOSEPH DAVIS, states that he has been a national of the United States since his naturalization on April 8, 1952.

Under section 303, Title III of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955), 22 U.S.C., §§1641-1641q (1971)), as further amended by subsection (3) of Public Law 93-460, approved October 20, 1974 (88 Stat. 1386 (1974)), the Commission is given jurisdiction to receive and determine in accordance with applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Hungary arising out of the failure of that government to pay effective compensation for the nationalization, compulsory liquidation, or other taking of property in Hungary between August 9, 1955, and March 6, 1973, the date of the United States-Hungarian Claims Agreement (Agreement Between the Government of the United States of America and the Hungarian People's Republic Regarding the Settlement of Claims, March 6, 1973, TIAS 7560).

The claimant, JOSEPH DAVIS, states that the property involved in this claim is situated in Bilke, presently known as Bilky. It is noted that Bilky is and was during the period from August 9, 1955, and March 6, 1973, within the boundaries of the Union of Soviet Socialist Republics (U.S.S.R.). The claimant neither asserts nor has he established a nationalization or other taking of the subject property by the Government of Hungary.

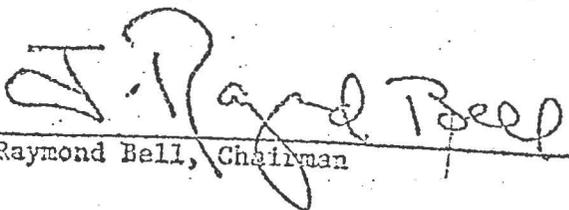
It is therefore, evident that the taking of the claimant's property, if that was the case, cannot be attributed to actions of the Government of Hungary between August 9, 1955, and March 6, 1973, the period covered by the Act. The fact that Bilky was occupied by Hungarian forces during the years of 1939-1944, is immaterial because such period of occupancy and any loss sustained thereby is outside of the period covered by the Act.

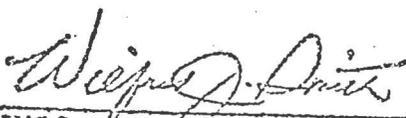
On the basis of the foregoing, the Commission finds that the claimant has not established that his property was nationalized or otherwise taken in Hungary by the Government of that country between August 9, 1955, and March 6, 1973, as required for compensation. Accordingly, the claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

23 APR 1975


J. Raymond Bell, Chairman


Wilfred J. Smith, Commissioner

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. §531.5(e) and (g), as amended.