

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

IN THE MATTER OF THE CLAIM OF

IRENE KISS MORY
GEORGE KISS
MARY KISS SOOS

Under the International Claims Settlement
Act of 1949, as amended

HUNG-2-458
Claim No. HUNG-2-459
HUNG-2-460

Decision No. HUNG-2-0149

Counsel for claimants:

Frank J. Lausche, Esquire

PROPOSED DECISION

These claims in the asserted amounts of \$97,000, \$119,750, and \$77,000, respectively, against the Government of Hungary, under subsections 306(d) and 303(1) and 303(2) of Title III of the International Claims Settlement Act of 1949, as amended, are based upon: (1) the destruction during World War II of wine and containers belonging to claimant, GEORGE KISS; and (2) the nationalization of a store and apartment complex located at Üllői út - 91A, Budapest, a residence at 4 Belavary Road, Siofok, and certain personal property including furniture, paintings, statuary, wine barrels and equipment.

Claimants, IRENE KISS MORY, GEORGE KISS, and MARY KISS SOOS, acquired United States nationality on July 21, 1912, May 11, 1910, and May 4, 1908, respectively, by birth in the United States.

Under section 306(d), Title III of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955)); 22 U.S.C. §§1641-1641q (1971), added by section (4) of Public Law 93-460, approved on October 20, 1974 (88 Stat. 1386 (1974)), the Commission is given jurisdiction as follows:

"Notwithstanding any other provision of this section, any national of the United States who was mailed notice by any department or agency of the Government of the United States with respect to filing a claim against the Government of Hungary arising out of any of the failures referred to in paragraphs (1), (2), or (3) of section 303 of this title, and who did not receive the notice as the result of administrative error in placing a non-existent address on the notice, may file with the Commission a claim under any such paragraph."

With respect to the claimant, GEORGE KISS, the Commission finds, based on the evidence of record, that in undertaking to notify the claimant of the filing period and other provisions of Public Law 84-285, which amended the International Claims Settlement Act of 1949, to provide for claims against Hungary arising under the circumstances described in paragraphs (1), (2) and (3) of section 303 of the Act, through an administrative error, a non-existent address was placed on the notice mailed to GEORGE KISS.

Accordingly, the Commission now finds that the claim of GEORGE KISS is eligible for consideration under section 306(d) of the Act to be considered upon the merits for compensation under the provisions of section 303(1), (2) and (3) of the Act.

With respect to the claims of IRENE KISS MORY and MARY KISS SOOS, each of whom assert a one-third (1/3) interest in portions of the property which is the subject of these claims, the Commission finds that they are not eligible for consideration under section 306(d) since the Commission did not have recorded in its files the intention of IRENE KISS MORY or MARY KISS SOOS to file a claim against Hungary, nor was there any notice to the Commission, notwithstanding the affidavit of Julia Kiss, the wife of GEORGE KISS, that GEORGE KISS was representing his sisters in the matter of their claims before the Commission. Not having notice of claimants' intention to file a claim against Hungary under Public Law 84-285, the Commission did not, in fact, undertake to notify IRENE KISS MORY or MARY KISS SOOS concerning the period for filing claims under the first Hungarian program. Accordingly, the Commission finds that IRENE KISS MORY and MARY KISS SOOS are not eligible claimants under section 306(d) of the Act.

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However, in view of the fact that had the claim of GEORGE KISS been timely filed under the first Hungarian Claims Program, the Commission could have entertained and granted a petition on the part of the claimants, IRENE KISS MORY and MARY KISS SOOS, to join in the claim of their brother, since they each claim an equal interest in the same properties which are the subject of the claim of GEORGE KISS, the Commission finds and it is:

ORDERED that the claimants, IRENE KISS MORY and MARY KISS SOOS, be joined as parties herein.

No loss under section 303(3) of the Act is asserted in any of these claims.

The applicable portions of section 303 are as follows:

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims of nationals of the United States against the . . . [Government of Hungary] . . . arising out of the failure to ---

(1) restore or pay compensation for property of nationals of the United States as required by article 23 of the treaty of peace with Bulgaria, articles 26 and 27 of the treaty of peace with Hungary, and articles 24 and 25 of the treaty of peace with Rumania. Awards under this paragraph shall be in amounts not to exceed two-thirds of the loss or damage actually sustained;

(2) pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to the effective date of this title, of property of nationals of the United States in Bulgaria, Hungary, and Rumania;

The war damage portion of the claim of GEORGE KISS asserted under section 303(1), supra, is based upon loss or destruction of 200 hectoliters of wine and the barrels containing the wine by Hungarian and German soldiers in 1944.

Based on the written testimony of witnesses dated March 26, 1945, and a certificate of the Administration of the Township of Tolcsva, Hungary, dated May 16, 1947, and other evidence of record, the Commission finds that the claimant, GEORGE KISS, was the owner of 200 hectoliters of wine in barrels in Tolcsva, which were destroyed as a result of World War II and that the value of such

property on the date of loss was \$5,400.00. Therefore, the Commission concludes that the claimant, GEORGE KISS, is entitled to compensation under section 303(1) in the amount of \$3,600.00, since under that section awards are limited to two-thirds of the loss or damage actually sustained.

With respect to the portion of these claims under section 303(2) based on the nationalization of the property identified as a four-story apartment and store complex at 91/a Üllői Road, Land Registry No. 13924, Budapest, Danube, left bank, the Commission finds, based upon the evidence of record including a copy of the Contract of Donation dated April 2, 1946, executed by George Kiss, Sr., father of the claimants herein, and an extract from the Land Records of Budapest, Register No. 10218, dated July 30, 1973, that the claimants, IRENE KISS MORY, GEORGE KISS, and MARY KISS SOOS, owned a one-third interest each in the above identified property which was nationalized by the Government of Hungary on or about August 9, 1952, pursuant to Law No. 4./1952 tvr. Based on the evidence of record, and the value of comparable properties in Hungary, the Commission further finds that the property at 91/a Üllői Road, Budapest, had a total value at the time of taking of \$120,000.00 and that the claimants, IRENE KISS MORY, GEORGE KISS and MARY KISS SOOS, are each entitled to compensation under section 303(2) in the amount of \$40,000.00, based on their respective one-third interests.

The Commission further finds that the claimants each owned a one-third interest in certain personal property which was also taken on or about August 9, 1952, which claimants assert had a total value of \$6,000.00. Based upon the entire record, the Commission finds \$6,000.00 to be a fair and reasonable value for the personal property taken and concludes that the claimants, IRENE KISS MORY, GEORGE KISS and MARY KISS SOOS, are each entitled to compensation under section 303(2) in the amount of \$2,000.00, based on their respective one-third interests.

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With respect to the real property located at 4 Belvory Road, Siofok, Hungary, identified as improved real property in Siofok, recorded in File No. 424, No. 2, under lot numbers 1863/5, number 132, house number 229, which was nationalized by the Government of Hungary pursuant to Law No. 20, in 1949, claimants, IRENE KISS MORY, GEORGE KISS and MARY KISS SOOS, assert that they inherited a one-third interest each in the claim based upon the loss of such property upon the death of their father, George Kiss, Sr., on March 24, 1957.

Under well established principles of international law, applicable to this claim under section 303 of the Act, in order for a claim to be compensable, the property upon which the claim is based must have been owned by a national of the United States at the time the nationalization or other taking occurred and the claim which arose therefrom must have been continuously owned thereafter by a United States national until its filing with the Commission.

Based upon information made available to the Commission by the Immigration and Naturalization Service of the United States Department of Justice, the Commission finds that George Kiss, Sr. renounced his United States citizenship and voluntarily applied for repatriation to the Hungarian Royal Ministry of the Interior and was legally repatriated on July 23, 1942, as a national of Hungary. The Commission further finds that George Kiss, Sr. never had his United States citizenship restored prior to his death in 1957, and accordingly, that he was not a national of the United States in 1949 when the subject property in Siofok was nationalized. Accordingly, the Commission concludes that since the subject property was not owned by a national of the United States on the date of loss as required for compensation under subsection 303(5) of the Act, supra, this portion of the claim must be and it is hereby denied.

Another portion of the claim, in the asserted amount of \$1,500.00, is based on the loss of certain wine barrels and equipment located in the apartment house at Ullői Ut. 91/a, in Budapest, assertedly owned solely by claimant, GEORGE KISS. No evidence in support of his owner-

ship of this property having been submitted, the Commission concludes that this portion of the claim must be and it is hereby denied.

A W A R D S

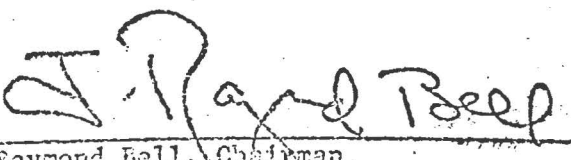
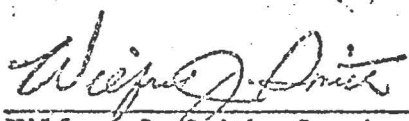
Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, the claims are allowed in part and an award is hereby made to IRENE KISS MORY in the amount of Forty-Two Thousand Dollars (\$42,000.00) plus interest thereon at the rate of 6% per annum from August 9, 1952, to August 9, 1955, the effective date of the Act, in the total amount of Seven Thousand Five Hundred and Sixty Dollars (\$7,560.00);

and an award is hereby made to GEORGE KISS in the amount of Forty-Five Thousand Six Hundred Dollars (\$45,600.00) plus interest on the award under section 303(2) at the rate of 6% per annum from August 9, 1952, to August 9, 1955, in the total amount of Seven Thousand Five Hundred and Sixty Dollars (\$7,560);

and an award is hereby made to MARY KISS SOOS in the amount of Forty-Two Thousand Dollars (\$42,000.00) plus interest thereon at the rate of 6% per annum from August 9, 1952, to August 9, 1955, the effective date of the Act, in the total amount of Seven Thousand Five Hundred and Sixty Dollars (\$7,560.00).

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

20 AUG 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.)

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