

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

IN THE MATTER OF THE CLAIM OF

OTMAR V. WOSTRY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-707

Decision No. HUNG-2-0092

Counsel for claimant:

Ronald J. Mishkin, Esquire

Appeal and objection from a Proposed Decision entered on July 16,
1975. No Oral Hearing Requested.

Hearing on the Record held on 21 JAN 1976

FINAL DECISION

This claim in the asserted amount of \$60,000.00 against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, is based the asserted loss of funds owed by company Reicchold-Flüger-Boecking, also know as Györi Lakkgyar; at Fehérvári Street in Györ, Hungary. Claimant stated that he acquired United States nationality on April 30, 1962, by naturalization.

In its Proposed Decision dated July 16, 1975, the Commission denied this claim for the reason that the subject property was taken as of December 24, 1948, and therefore, prior to the statutory period, August 9, 1955, to March 6, 1973, during which the claim must have arisen in order for compensation to be granted under subsection 303(5) of the Act.

By letter dated August 5, 1975, claimant, through counsel, submitted his objection to the Proposed Decision. However, no additional evidence was submitted nor were any errors in factual findings of the Commission alleged.

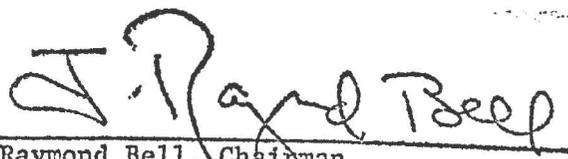
Full consideration having been given to the entire record, including the claimant's objection, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

Accordingly, it is

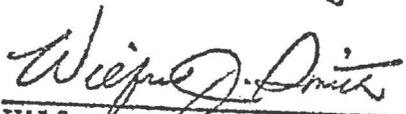
ORDERED that the Proposed Decision be and it is hereby affirmed.

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

21 JAN 1976



J. Raymond Bell, Chairman



Wilfred J. Smith, Commissioner

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Counsel for claimant:

Ronald J. Mishkin, Esq.

PROPOSED DECISION

This claim in the asserted amount of \$60,000.00 against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of funds owed by company Reicchold-Flüger-Boecking, also known as Györi Lakkgyar; at Fehérvári Street in Győr, Hungary.

Claimant states that he acquired United States nationality on April 30, 1962, by naturalization.

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 amended by section (3) of Public Law 93-460, approved on October 20, 1974 (88 Stat. 1386 (1974)), and which implements certain provisions of the Hungarian Claims Agreement of March 6, 1973, (TIAS 7569), the Commission is given jurisdiction 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 ---

(5) pay effective compensation for the nationalization, compulsory liquidation or other taking of property of nationals of the United States in Hungary, between August 9, 1955, and the date the United States-Hungarian Claims Agreement of March 6, 1973, enters into force.

Therefore, this new section of the Act does not confer jurisdiction upon the Commission to consider all claim which were settled and discharged under the Hungarian Claim Agreement of 1973, but rather, provides for limited class only, namely, those which arose between August 9, 1955, and March 6, 1973, as a result of the nationalizaion, compulsory liquidation or other taking of property.

It is important to note that other classes of claims settled and discharged by the Agreement which arose prior to August 9, 1955, were provided for pursuant to subsections (1), (2) and (3) of section 303 of the Act, supra. The Commission's authority with respect to claims arising before August 9, 1955, under Public Law 84-285, expired, by law, on August 9, 1959.

In the rider, attached to the Statement of Claim, it is stated by the claimant, OTMAR V. WOSTRY, that his late father, Viktor Wostry had a claim against the company Reicchold-Flüger-Boecking, also known as Györi Lakkgyar at Fehérvári Street in Györ, Hungary, for monies invested in that company during several years prior and including the year of 1945. In the year of 1945 the company was put "under Soviet control which made it impossible to have access to that money or recover it in any way."

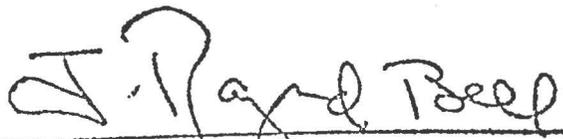
A research of the Hungarian laws and statutes shows that by Decree 13,110/1948 Korm. the Hungarian Government imposed practically a complete bar (with a few exceptions not applicable to this claim) to all money claims which originated prior to August 1, 1946. The Commission finds that the prohibition to bring action for the judicial enforcement of money claims, which prohibition has not been lifted to date, amounted to a taking of the claim now in question as of December 24, 1948, the date when Decree 13,110/1948 Korm. entered into force. Accordingly, the Commission concludes that it has no jurisdiction to grant compensation for the loss in question because it occurred on December 24, 1948, a date prior to August 9, 1955, the first date of the period during which a loss must have occurred in order to be compensable under the Act, supra.

In view of the foregoing, the claim must be and it is hereby denied.

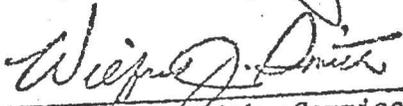
The Commission finds it unnecessary to make determinations with respect to other aspects of this claim (e.g. the effect of the inflation of the pengö currency upon the value of the claim; the date when the claim became owned by a national of the United States).

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

16 JUL 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 to 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.)

HUNG-2-707