

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

IN THE MATTER OF THE CLAIM OF

EVA E. LAUER  
ELISABETH LUGOSY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-713  
HUNG-2-714

Decision No. HUNG-2- 0476

Counsel for claimants:

Foonberg and Frandzel  
by Jay G. Foonberg, Esquire

Appeal and objection from a Proposed Decision entered on January 7,  
1976.

Hearing on the Record held on 29 SEP 1976

FINAL DECISION

These claims in the asserted amounts of \$144,500.00 and \$234,500.00 respectively, against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, are based upon the asserted loss of personal property in Hungary, consisting of jewelry, furnishings of a three bedroom apartment, and 25,000 forint in cash. ELISABETH LUGOSY also claims the loss of a 1/4th interest in certain improved real property at No. 49 Lajos Street in Budapest, Hungary.

The claimants, EVA E. LAUER and ELISABETH LUGOSY, state that they acquired United States nationality on February 14, 1958, and August 5, 1960, respectively, by naturalization.

In its Proposed Decision dated January 7, 1976, the Commission denied these claims for the following reasons:

1. A list, prepared by ELISABETH LUGOSY, who left Hungary in 1948, was found to have been of insufficient probative value to establish that the jewelry and other personal property listed therein was owned by the late Mrs. Aladar Szasz, nee Irma Weltner, the claimants' asserted predecessor in interest, at the time of her death on June 24, 1952, and inherited by the claimants upon her death.

2. The loss of the property involved in these claims occurred, assertedly, between December 1955 and February 26, 1956, on dates when neither the claimants nor Laszlo Lugosy, their predecessor in interest in part, were nationals of the United States, as required for compensation.

3. The improved real property at No. 49 Lajos Street in Budapest, was nationalized in the year of 1952, a date prior to August 9, 1955,

the first date of the period during which the loss must have occurred in order to be compensable.

By letter dated January 27, 1976, claimants, through counsel, objected to the Proposed Decision and requested an Oral Hearing. Subsequently, after an Oral Hearing had been scheduled, counsel for claimants requested that the Oral Hearing be canceled and that the matter be presented to the Commission as a Hearing on the Record. This request was granted.

In their objections and brief the claimants argue as follows:

1. The claimants could not have anticipated the seizure of their property. Therefore, the evidence which they have supplied should prove adequate to substantiate at least a large portion of their losses.

2. Persons, such as the claimants, waiting out their pre-naturalization residence, are "nationals" for all intents and purposes.

No objection to the denial of that portion of the Proposed Decision by which the claim based upon a one-fourth interest in the real property at No. 49 Lajos Street in Budapest was taken.

Having considered the entire record and claimants' objections, the Commission finds that since the claimant, ELISABETH LUGOSY, left Hungary in 1948, a list, prepared by her today on the basis of her recollections, is insufficient to identify the assets of the estate of the late Mrs. Aladar Szasa nee Irene Weltner, who died on June 24, 1952. Moreover, the evidence of record indicates that Mrs. Jozsef Kohn nee Weltner took the property in question and sold it prior to her departure sometime between 1956 and 1958, and, therefore, whether such property was, in fact, nationalized is doubtful.

With respect to the question of the date when United States nationality accrues, the Commission finds that it is well established law that an alien does not become a citizen of the United States until such time as a court of competent jurisdiction enters its order of naturalization. Until such act occurs, an alien does not acquire the status of citizenship, de facto or otherwise, but rather remains an alien. (Petition of Moser, 182 F. 2d 734 (2d Cir. 1950) reviewed on other grounds, 340 U.S. 41 (1951); Johnson v Nickoloff, 52 F. 2d 1074 (9th Cir. (1931); United States v Uhl, 211 F. 628 (2d Cir. 1941), in Claim of WALTER LUDWIG KOERBER, Claim No. W-3917 FCSC Dec. & Ann. 574-575 (1968).

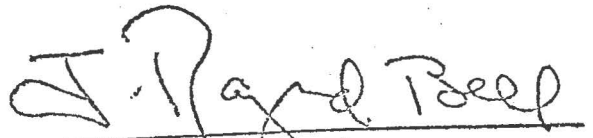
Therefore, full consideration having been given to the entire record, including the claimants' objections, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

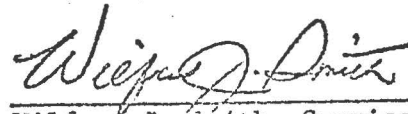
Accordingly, it is

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.

29 SEP 1976

  
J. Raymond Bell, Chairman

  
Wilfred J. Smith, Commissioner

The Regulations of the Commission provide that after a Final Decision is entered denying a claim in whole or in part, the claimant may petition to have his claim reopened for further consideration if new and compelling evidence becomes available. Such petition must be filed at least 60 days prior to May 15, 1977, the statutory deadline for the completion of the Hungarian Claims Program. (FCSC Reg., 45 C.F.R. 531.5(1), as amended.)

HUNG-2-713  
HUNG-2-714

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES

WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

EVA E. LAUER  
ELISABETH LUGOSY

Under the International Claims Settlement  
Act of 1949, as amended

HUNG-2-713  
Claim No. HUNG-2-714

Decision No. HUNG-2-0476

Counsel for claimants:

Foonberg and Frandzel  
by Jay G. Foonberg, Esq.

PROPOSED DECISION

These claims in the asserted amounts of \$144,500.00 and \$234,500.00, respectively, against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, are based upon the asserted loss of personal property in Hungary, consisting of jewelry, furnishings of a three bedroom apartment, and 25,000 forint in cash. ELISABETH LUGOSY also claims the loss of a 1/4th interest in certain improved real property at No. 49 Lajos Street in Budapest, Hungary.

The claimants, EVA E. LAUER and ELISABETH LUGOSY, state that they acquired United States nationality on February 14, 1958, and August 5, 1960, respectively, 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 claims which were settled and discharged under the Hungarian Claims Agreement of 1973, but rather, provides for a limited class only, namely, those which arose between August 9, 1955, and March 6, 1973, as a result of the nationalization, compulsory liquidation or other taking of property.

Moreover, under well established principles of international law, applicable to this claim under subsection 303(5) of the Act, supra, in order for a claim to be compensable, the property upon which it is based must have been owned by a national of the United States at the time the claim which arose therefrom must have been continuously owned thereafter by a United States national until its filing with the Commission.

In support of their claim the claimants, EVA E. LAUER and ELISABETH LUGOSY, submitted documentation which shows as follows:

In her Last Will, dated March 9, 1951, the late Mrs. Aladár Szász nee Irene Weltner bequeathed certain unidentified cash, jewelry, and silverware to Laszlo Lugosy and his daughter, EVA E. LAUER. Claimants state that Mrs. Aladár Szász nee Irene Weltner died on June 24, 1952.

Laszlo Lugosy died on June 7, 1966, and the claimants state that his estate was inherited by them, the ratio being left for the Commission's determination.

Upon the death of the late Mrs. Aladár Szász nee Irene Weltner, the Guardianship Authority of Budapest appointed one Emil Györy as guardian ad hoc for the absentee Laszlo Lugosy and EVA E. LAUER. Inasmuch as Emil Györy died on December 15, 1955, one István Mezey was appointed as guardian ad hoc in his stead.

Pursuant to the actions of István Mezey, the estate proceedings were completed and silverware, consisting of 32 items and having a weight of 7,900 grams, listed in estate inventory X under item 48, and other personal property, listed in estate inventory Y, were distributed to Laszlo Lugosy and EVA E. LAUER in equal shares by Decree of Distribution Kjö:VII.147/1956/2, dated February 21, 1956. The silverware and the other personal property, now in question, however, could not be obtained by the guardian ad hoc, István Mezey, because Mrs. József Kohn nee Erzsébet Weltner, who had custody thereof, left the country illegally and departed to an unknown address. The Guardianship Authority of Budapest speculates, in its letter of November 28, 1958, that Mrs. József Kohn nee Weltner apparently took the property in question with herself or sold it prior to her departure.

The claimants are of the opinion that:

"sometime between the death of Dr. Györi in December of 1955, and the final inventory of Dr. Mezey on February 26, 1956, the estate of Mrs. Szász was either confiscated or lost by the Government of Hungary."

In order to establish the identity and value of the jewelry, furnishings of a three bedroom apartment and cash, the claimants submitted an inventory, made by ELISABETH LUGOSY, and based entirely upon her memory and recollections.

The Commission finds that the list, prepared by ELISABETH LUGOSY, who left Hungary in 1948, is of insufficient probative value to conclude that the jewelry and other personal property listed therein was owned by the late Mrs. Aladár Szász nee Irene Weltner at the time of her death on June 24, 1952, and inherited by the claimants upon her death.

Furthermore, assertedly the loss occurred between December 1955, and February 26, 1956, on dates when neither the claimants nor Laszlo Lugosy, their predecessor in interest in part, were nationals of the United States, as required for compensation.

A portion of the claim made by ELISABETH LUGOSY is based upon the asserted ownership and loss of a 1/4 interest in the improved real property at No. 49 Lajos Street in Budapest, Hungary.

The record shows that the real property at No. 49 Lajos Street, consisting of a five story apartment house, was nationalized by the Government of Hungary under Law-Decree 1952:4 tvr. and title was transferred to the State of Hungary by court order 4741/1952 in the year of 1952.

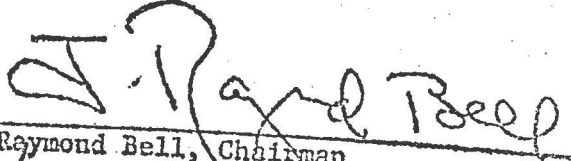

Accordingly, the Commission concludes that it has no authority to grant compensation for the loss of the asserted 1/4 interest in the real property at No. 49 Lajos Street, because it was nationalized by the Government of Hungary in the year of 1952, a date prior to August 9, 1955, the first date of the period during which the loss must have occurred in order to be compensable under subsection 303(5) of the Act, supra.

In view of the foregoing, these claims are denied in their entirety with respect to both claimants.

The Commission finds it unnecessary to make determinations with respect to other elements of these claims.

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

: 7 JAN 1976

  
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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