

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

IN THE MATTER OF THE CLAIM OF

THERESA RABINOVITS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. RUM-2-258

Decision No. RUM-2-339

Counsel for claimant:

Hugo H. Klein, Esq.

AMENDED FINAL DECISION

This claim, for \$48,250.00, against the Government of Rumania, under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of certain improved real property at No. 3 Ciordas Square, business property consisting of three stores at No. 5 Ciordas Square, all in Beius, Rumania. The claimant, THERESA RABINOVITS, has been a national of the United States since her naturalization on May 16, 1958.

By Proposed Decision dated August 18, 1971, the claim was denied for the failure of the claimant, THERESA RABINOVITS, to establish that she owned property in Rumania which was nationalized or otherwise taken by the Government of that country between August 9, 1955, and March 30, 1960, on a date when such property was owned by a national of the United States, as required for compensation. Claimant filed objections and requested an oral hearing which was held on October 7, 1971. After consideration of the matter the Proposed Decision was affirmed by Final Decision dated October 20, 1971.

Subsequently, the claimant petitioned the Commission to reopen the claim and submitted new evidence, consisting information obtained from a resident of Beius, Rumania, who lived in the area where the property is located.

On the basis of the entire record, including the new evidence submitted with the petition to reopen, the Commission now finds as follows:

The late Mark Weinstein owned the improved real property recorded in liber No. 914 of Beius, Rumania, as land parcel Nos. 97 and 98. He died intestate on January 20, 1936, and under the applicable Rumanian law on intestate succession, the claimant, THERESA RABINOVITS, inherited a 1/4th interest in the property. The remaining 3/4ths of the property was inherited by the decedent's surviving widow, Hani Weinstein, his daughter, Ilana Gal, and his son, Vasile Weinstein. Hani Weinstein died intestate on July 8, 1970, and in 1971 Ilana Gal as well as Vasile Weinstein, "relinquished" and "renounced", respectively, their inherited interests in the subject property, more correctly, their claim for compensation, in favor of the claimant.

The Commission finds that the "relinquishing" and "renunciation" had no retroactive effect and that in fact it was in the nature of an assignment which took effect on the date when the documents were executed, namely on August 31, 1971, and September 6, 1971, respectively. Inasmuch as the late Hani Weinstein, Ilana Gal, and Vasile Weinstein apparently never acquired nationality of the United States, their respective interests in the property were not owned by a national of the United States on March 30, 1959, the date when the property in question, including the 1/4 share owned by the claimant, was taken by the Government of Rumania, as required for compensation. (Cf. Claim of Arthur Dobozy, et al., Claim No. HUNG-21,300; 10 FCSC Semiann. Rep. 55 (Jan.-June 1959)). Therefore, the portion of the claim which is made for the loss of an additional 3/4ths interest in the subject property must be and it is hereby denied.

It is alleged by the claimant that the property had the value of \$48,250.00 as of the time of its loss.

The extract of land record liber No. 914 of Beius and the latest information submitted show that the subject property consisted of a building parcel of 3,294 square meters, improved by a dwelling house of undetermined age, condition and size, a separate structure for hired help, a structure used as a warehouse and a stable. On the basis of all evidence of record, including evidence of value of comparable property in Rumania, the Commission finds that on March 30, 1959, the date when the claim arose, the subject property had the value of \$24,000.00, of which the value of a 1/4th interest amounted to \$6,000.00; and concludes that the claimant is entitled, under Section 303(4) of the Act, supra, to compensation in such latter amount.

The Commission has held that in granting awards on claims under Section 303(4) of the Act for the nationalization or other taking of property interest shall be allowed at the rate of 6% per annum from the date of loss to March 30, 1960, the effective date of the Rumanian Claims Agreement. (See Claim of John Hedio Proach, Claim No. PO-3197; FCSC Dec. & Ann. 549 (1968).)

In view of the foregoing, it is

ORDERED that the claimant's petition for permission to reopen this claim be and it is hereby granted; that the Proposed Decision as it was affirmed by the Final Decision on October 20, 1971, be amended in accordance with the foregoing, in all other respects be remain unaffected; and that an award be granted to the claimant as follows:

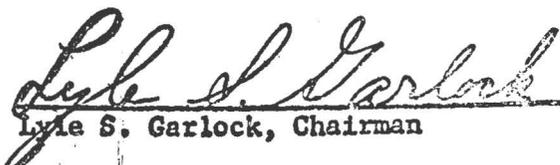
A W A R D

An award is made to THERESA RABINOVITS in the principal amount of Six Thousand Dollars (\$6,000.00), with interest thereon at the rate of 6% per annum from March 30, 1959, the date when the claim arose, to March 30, 1960, the effective date of the Rumanian Claims Agreement, in the sum of Three Hundred Sixty Dollars (\$360.00).

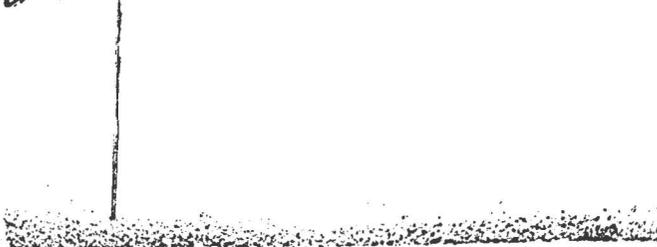
Dated at Washington, D. C.
and entered as the Amended
Final Decision of the
Commission

DEC 9 1971

FOR THE COMMISSION



Lyle S. Garlock, Chairman



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

IN THE MATTER OF THE CLAIM OF

THERESA RABINOVITS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. RUM-2-258

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Counsel for claimant:

Hugo H. Klein, Esq.

Appeal and objections from a Proposed Decision entered on August 18, 1971.

Oral argument on October 7, 1971, by Hugo H. Klein, Esquire, for claimant.

FINAL DECISION

This claim, for \$48,250.00, against the Government of Rumania, under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of certain improved real property at No. 3 Ciordas Square, business property consisting of three stores at No. 5 Ciordas Square, all in Beius, Rumania. By Proposed Decision dated August 18, 1971, the claim was denied for the failure of the claimant, THERESA RABINOVITS, to establish that she owned property in Rumania which was nationalized or otherwise taken by the Government of that country between August 9, 1955, and March 30, 1960, on a date when such property was owned by a national of the United States, as required for compensation.

Pursuant to the claimant's objections to the Proposed Decision dated August 18, 1971, an oral hearing was held on October 7, 1971, in the course of which the counsel argued the case.

Full consideration having been given to the entire record, including the counsel's arguments, the claimant's objections, the official extract of land record liber No. 914 of Beius, and statements by Ilana Gal and Vasile Weinstein, the Commission finds that the evidence of record does not warrant a change in the Proposed Decision. Therefore, it is

ORDERED that the Proposed Decision of August 18, 1971, be and the same is hereby affirmed as the Final Decision of the Commission in this case, without prejudice to the claimant's right to petition the reopening of this case on the basis of newly discovered evidence, provided such petition and the new evidence is submitted well in advance of December 24, 1971, the statutory final date set for the completion of Rumanian claims determination, to allow consideration thereof by the Commission.

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

OCT 20 1971

L. S. Garlock
L. S. Garlock, Chairman

Theodora Jaffe
Theodora Jaffe, Commissioner

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Counsel for claimant:

Hugo H. Klein, Esq.

PROPOSED DECISION

This claim, for \$48,250.00 , against the Government of Rumania, under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of certain improved real property at No. 3 Ciordas Square, business property consisting of three stores at No. 5 Ciordas Square, all in Beius, Rumania. The claimant, THERESA RABINOVITS, states that she has been a national of the United States since her naturalization on May 16, 1958.

Under Section 303, Title III, of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955), 22 U.S.C. §§1641-1641q (1964)), as further amended by Section 10 of Public Law 90-421, approved on July 24, 1968 (82 Stat. 420 (1968)), the Commission is given jurisdiction over certain claims of nationals of the United States included within the terms of the Rumanian Claims Agreement of 1960 (Agreement Between the United States of America and the Rumanian People's Republic Relating to Financial Questions Between the Two Countries, March 30, 1960, 11 UST 317; TIAS 4451 (1960)).

The jurisdiction of the Commission is set forth in Section 303(4) of the Act, supra, which authorizes the receipt and determination by the Commission 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 Rumania arising out of the failure of that government to pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States between August 9, 1955 and March 30, 1960, the effective date of the Rumanian Claims Agreement.

It is clear, therefore, that this new section of the Act does not confer jurisdiction upon the Commission to consider all claims which were settled and discharged under the Rumanian Claims Agreement of 1960; but rather, provides for a limited class only, namely, those which arose between August 9, 1955 and March 30, 1960 as a result of the nationalization, 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. That program was completed on August 9, 1959 pursuant to an express statutory mandate.

Additionally, under well established principles of international law, 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 on the date that it was taken and the claim which arose from such taking must have been continuously owned thereafter by a United States national until its filing with the Commission.

This is also clear from Article I(2) of the Rumanian Claims Agreement of 1960 which provides that the term "nationals of the United States" as used in subparagraph (b), which relates to claims for the nationalization, compulsory liquidation, or other taking of property, refers to nationals who possessed United States nationality "on the effective date of nationalization, compulsory liquidation or other taking".

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970)).

No evidence was submitted with the Statement of Claim. Therefore, by Commission letter of June 3, 1971, the claimant was advised, through counsel, of the provisions of Section 303(4) of the Act, supra, as to the type of evidence proper for submission to establish this claim under the Act, and the sources from which it may be obtained. No reply or evidence was received.

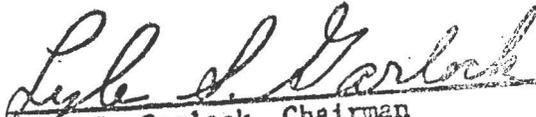
Thereafter, by letter of July 2, 1971, the claimant was advised that this matter had been reached for determination. In that letter it was suggested that supporting evidence be submitted within 30 days from the date of that letter, and the claimant was informed that after that date it may become necessary for the Commission to make a determination on the basis of the record then available. However, no evidence was submitted to date.

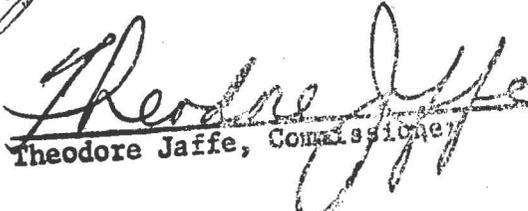
In view of the foregoing, the Commission finds that the claimant has not met the burden of proof in that she has failed to establish that she owned property in Rumania which was nationalized or otherwise taken by the Government of that country between August 9, 1955, and March 30, 1960, on a date when such property was owned by a national of the United States, as required for compensation. Accordingly, this 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 as the Proposed
Decision of the Commission

AUG 18 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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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