

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

**IN THE MATTER OF THE CLAIM OF**

RENEE SANTICH-SANCER, Co-Executrix  
of the ESTATE of KARLO SANTICH,  
also known as KARLO SANCER, Deceased

**Claim No. Y2- 1669**

**Decision No. Y2- 1463**

**Under the Yugoslav Claims Agreement of 1964  
and Title I of the International Claims  
Settlement Act of 1949, as amended**

Counsel for Claimant:

Paul Neuberger, Esq.  
Samuel Herman, Esq.

Appeal and objections from a Proposed Decision entered February 5, 1969.  
Oral hearing requested and held on April 3, 1969.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on February 5, 1969, denying the same for the reason that claimant failed to establish that the deceased Karlo Santich had a proprietary interest in the nationalized real property of "Trgovacki Fond" (Merchants Fund), a mutual pension fund in the city of Belgrade.

Claimant, through counsel filed objections to the Proposed Decision, submitted additional evidence, and requested an oral hearing which was scheduled and held on April 3, 1969. At the hearing claimant's counsel submitted further evidence and presented argument. In his objections and argument claimant's counsel contended that the deceased Karlo Santich had a beneficial interest in the real property recorded in the name of the Fund and that upon liquidation of the Fund, the proceeds were to be distributed to its members in accordance with their investments. In support of this contention, claimant's counsel submitted a sworn statement signed on March 18, 1969 by Cedomir Petrovic before the Embassy of the United States in Belgrade, which reads in English translation as follows:

"At the request of Mr. Petar D. Vuckovic, attorney of Belgrade, 23 Drinciceva Street, I hereby confirm the following:

I am the President of the Trogovacki fund of Belgrade which position I have occupied for the last twenty years and in this capacity I state the following:

All members of the Trogovacki fund of Belgrade have co-ownership interests and rights in the real property of the Fund which property was obtained through the payment of their monthly installments. However, the entire property of the Fund has been nationalized; and after this nationalization of the Fund's real property, the commercial fund shall pay to its members in accordance with their investment money which shall be collected as compensation for the nationalized property.

This statement I give for the use of the family of the late Karl and Adolf Sancer for the purpose of realizing their rights before the appropriate commission of the United States of America."

The Commission finds, on the basis of this document and other evidence of record, that the Merchants Fund of Belgrade actually was not a true pension plan but was closer to being in the nature of a corporation. Therefore, the members of the Fund are treated as if they were stockholders who would be entitled to their proportionate share of the net assets in the case of the liquidation of the Fund. No effective present scheme exists for the prompt distribution of the liquidation shares and the Commission finds that claimant is entitled to compensation for the nationalized property of the Fund commensurate to the share Karlo Sancer's deposit bears to the total amount of all membership deposits in the Fund.

It remains to be ascertained what the proportion is between Karlo Sancer's deposit and all membership deposits in the Fund and what the value was of the nationalized real property owned by the Fund.

An examination of the record discloses that on January 1, 1949 Karlo Sancer's deposit amounted to 84,908 dinars  
From 1949 to 1960 a yearly interest of 3,107 dinars was added to the principal, or, for 12 years 37,284 dinars  
Total amount of deposit on 12/31/1960: 122,192 dinars

A further examination of the record reveals that on December 31, 1960 the total amount of all membership deposits amounted to 60,680,030 dinars.

Consequently, claimant's share in the Fund as of the end of 1960 was 122,192 + 60,680,030, or 0.20137%.

The balance sheet of the Fund dated December 31, 1960 shows that the Fund was the owner of improved real property in Belgrade located at the following addresses:

2-4 Knez Mihajlova Street evaluated at	30,173,969 dinars
23 Marshal Tito Street evaluated at	18,500,000 dinars
66 Marshal Tito Street evaluated at	2,907,500 dinars
70 Marshal Tito Street evaluated at	<u>3,765,000 dinars</u>
Total	55,346,470 dinars

Some of the above buildings were among the largest office and apartment houses in Belgrade. It appears that the evaluation in the amount of 55,346,470 dinars reflects the value of these buildings expressed in prewar currency and that these values remained frozen in the balance sheet of 1960. The Commission, therefore, concludes that the above real estate holdings were listed at their prewar value and not in the currency of the year 1960.

The record further shows that these buildings were nationalized as follows:

- 2-4 Knez Mihajlova Street (Liber No. 956 Belgrade 1) on January 22, 1960;
- 23 Marshal Tito Street (Liber No. 1472 Belgrade 5) on April 8, 1960;
- 66 Marshal Tito Street (Liber No. 687 Belgrade 5) on May 13, 1960;
- 70 Marshal Tito Street (Liber No. 689 Belgrade 5) on May 3, 1961.

The Commission has held that the prewar (1938-1939) values reflect the best basis for the appraisal of property and are to be considered as the point of reference for valuation purposes; that depreciation of the buildings during and after the war was largely offset by appreciation of real estate values after World War II; and that the prewar dinar currency shall be converted into United States currency at the rate of 44 dinars for \$1.00. (See the Claim of Alexis G. Bacic, Claim No. Y2-0522, 1967 FCSC ANN. REP. 75.)

In the absence of any appraisals furnished by the claimant or by any other source, the Commission relies on the valuation of the real property in the above-discussed balance sheet of the Fund and finds that at the time of nationalization the entire real property of the Fund was worth 55,346,470 prewar dinars or \$1,257,874.00.

Claimant's 0.20137% interest is represented by the amount of \$2,532.98 and the Commission concludes that claimant is entitled to an award in that principal amount.

Claimant states that Karlo Sancer-Santich inherited from his father, Adolph Sancer, a separate membership interest in the Fund; no evidence, however, has been submitted to show that Adolph Sancer owned a separate credit balance which was not included in the credit balance of his son Karlo. In the absence of such evidence, the portion of the claim relating to the membership interest of Adolph Sancer is denied.

The Commission has decided that, in granting awards on claims under the Yugoslav Claims Agreement of 1964, interest shall be allowed at the rate of 6% per annum from the date of loss to January 20, 1965, the date on which the Agreement entered into force and effect. (See the Claim of Alexis G. Bacic, Claim No. Y2-0522, (supra).) Accordingly, the amount of the award will be increased with interest at 6% per annum on the amounts of \$1,380.94 from January 22, 1960; on \$846.67 from April 8, 1960; on \$133.06 from May 13, 1960; and on \$172.31 from May 3, 1961, the effective dates of taking to January 20, 1965, the effective date of the Agreement in the instant claim.

In view of the foregoing, it is

ORDERED that the Proposed Decision of February 5, 1969 be and the same is hereby set aside; and that the above decision including the award set forth below be entered as the Final Decision in this claim.

A W A R D

An award is hereby made to RENEE SANTICH-SANCER, Co-Executrix of the ESTATE of KARLO SANTICH, also known as KARLO SANCER, Deceased, in the principal amount of Two Thousand Five Hundred Thirty-Two Dollars and Ninety-Eight Cents (\$2,532.98), together with interest thereon in the sum of Seven Hundred Thirty-Two Dollars and Sixty-Three Cents (\$732.63) which interest is at the rate of 6% per annum from the respective dates of taking, to January 20, 1965, the date on which the Yugoslav Claims Agreement entered into force.

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

JUN 4 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

RENEE SANTICH-SANCER, Co-Executrix  
of the ESTATE of KARLO SANTICH,  
also known as KARLO SANCER, Deceased

Claim No. Y2- 1669

Decision No. Y2- 1463

Under the Yugoslav Claims Agreement of 1964  
and Title I of the International Claims  
Settlement Act of 1949, as amended

Counsel for Claimant:

Paul Neuberger, Esq.  
Samuel Herman, Esq.

PROPOSED DECISION

This claim, in the amount of \$60,000.00, is based upon the asserted ownership and loss of improved real property in Belgrade, Yugoslavia. Claimant, RENEE SANTICH-SANCER, is the Co-Executrix of the Estate of Karlo Sancer, deceased, who was a national of the United States from his naturalization on September 5, 1946, to his death on December 1, 1961.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended (64 Stat. 13 [1950], 22 U.S.C. §1623(a) [1964]), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Yugoslav Claims Agreement of November 5, 1964, and the Commission is directed to apply the following in the following order:

- (1) The provisions of the applicable claims agreement as provided in this subsection; and (2) the applicable principles of international law, justice and equity.

Among other things, the Agreement provides as follows:

Article I. (a) The Government of Yugoslavia agrees to pay, and the Government of the United States Agrees to accept, the sum of \$3,500,000 United States currency in full settlement and discharge of all pecuniary claims of nationals of the United States, whether natural or juridical persons, against the Government of Yugoslavia, on account of the nationalization and other taking of property and of rights and interests in and with respect to property which occurred between July 19, 1948 and the date of this Agreement.

Article II. The claims of nationals of the United States to which reference is made in Article I of this Agreement refer to claims which were owned by nationals of the United States on the date on which the property and rights and interests in and with respect to property on which they are based was nationalized or taken by the Government of Yugoslavia and on the date of this Agreement. (Agreement between the Government of the United States and the Government of the Socialist Federal Republic of Yugoslavia Regarding Claims of United States Nationals, November 5, 1964, [1965] 16 U.S.T. 1, T.I.A.S. No. 5750 [effective January 20, 1965].)

Claimant states that the deceased Karlo Santich-Sancer was a member of an organization called "Trgovacki Fond" (Merchants Fund), which was essentially a co-operative type, mutual pension fund in the city of Belgrade to which the members contributed monthly dues upon which depended their future monthly pension after retirement. The accumulated amount of principal and accrued interest represented the share of a given member in the total assets of the Fund.

Claimant further states that Adolf Sancer, the father of Karlo Santich-Sancer, was equally a member of "Trgovacki Fond", and that upon his death on August 14, 1938, Karlo Sancer as his son and sole heir inherited all the membership rights of his father, including his share in the assets of the Fund.

Claimant asserts that these assets included four large buildings in the city of Belgrade, designated as (1) building "Albania" at Nos. 2, 4, and 6 Knez Mihajlo Street, and No. 12 Kolarceva Street; (2) a building at No. 23 Marshal Tito Street and 34 Zdanov Street; (3) a building at No. 70 Marshal Tito Street; and (4) a building at the corner of Marshal Tito and Kralja Milutina Streets. Claimant further asserts that these buildings were nationalized subsequent to July 19, 1948, and that Adolf Sancer as a member of the Fund sustained a loss in the amount of \$60,000.00.

In support of the claim, claimant submitted a statement dated October 11, 1967, signed by two officers of the "Trgovacki Fond". In this statement they confirm that Karlo Sancer was one of the 2,150 members of their organization and that the balance of Karlo Sancer's accumulated contributions amounted to 138,403 old dinars as of

December 31, 1963. The 1967 value of this sum was 1,384.03 dinars (or, at the exchange rate of 12.50 dinars for \$1.00, \$110.72). The officers of the Fund added in their statement that after the nationalization of the real property, the Fund will pay to its members, proportionately, compensation collected for the nationalized property, in relation to the deposits of record credited to their members.

Additional documents submitted by the claimant show that the "Trgovacki Fond" was the owner of the following real property:

- (1) building "Albania", which was nationalized on January 22, 1960 under No. 111/60;
- (2) building at No. 23 Marshal Tito and 34 Zdanov Streets, which was nationalized on March 30, 1960 under No. 6219/59; and
- (3) building at No. 70 Marshal Tito Street, which was nationalized on February 16, 1961 under No. 542/61.

No evidence has been submitted with respect to the real property located at the corner of Marshal Tito and Karlja Milutina Streets.

The Commission has given consideration to claimant's allegations and the documentation submitted in support of the claim and finds the following:

This claim was previously filed with the Commission under the proceedings instituted under the Yugoslav Claims Agreement of July 19, 1948. In that claim, filed under Docket No. Y-1640, Karlo Sancer alleged that he owned two membership shares in the "Trgovacki Fond" and that the paid-in amount of the shares amounted to 550,000 dinars in 1940. He further alleged that he owned two per cent of the total outstanding capital stock in the Fund and in "Hipotekarna Banka Trgovackog Fonda" (Mortgage Bank of the Merchants Fund), a bank organized and owned by the "Trgovacki Fond". He claimed the loss of the real property owned by the Fund on the strength of the aforementioned two per cent share in the capital stock of the Fund.

In its Proposed Decision No. 1347 of October 12, 1954, the Commission held that claimant had failed to establish his ownership interest in, or the taking of, the property of the Fund; and the claim relating to the Fund was denied. The portion of the Proposed Decision relating to the Fund was affirmed by Final Decision of December 21, 1954.

In order to establish a compensable claim under the Yugoslav Claims Agreement of 1964, a claimant must show, among other things, that he had an ownership interest in the nationalized property. Here, claimant merely proved that "Trgovacki Fond" owned certain real property in the city of Belgrade which was nationalized under the Law on Nationalization of Buildings for Rent and Building Lots (Sl. List [Yugoslavia], No. 52, Item 890, December 31, 1958). Claimant failed to establish that the deceased Karlo Sancer had any direct or indirect ownership interest in the property of the Fund, inasmuch as the contributions made by Karlo Sancer and by his predeceased father, Adolf Sancer, were not investments for business purposes but, in essence, payments of insurance premiums for the subsequent recovery of retirement benefits in the form of annuities payable to merchants who were of old age or were otherwise incapacitated to continue to maintain their businesses.

"Trgovacki Fond" was not a corporation or a cooperative and Karlo Sancer was not a stockholder of the Fund. The evidence submitted by the claimant indicates, and the Commission so finds, that the dues paid by the members of "Trgovacki Fond" were kept in accounts in the nature of insurance premium deposits and that these deposits were not nationalized or taken by the Government of Yugoslavia.

The Commission concludes that claimant failed to establish that the deceased had a proprietary interest in the nationalized real property of the Fund; accordingly, this claim must be and it is hereby denied.

The Commission deems it unnecessary to determine other elements of this claim.

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

FEB 5 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, 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, 32 Fed. Reg. 412-13 [1967].)

Y2-1669