

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

IN THE MATTER OF THE CLAIM OF

C. B. RICHARD & CO.  
50 Broadway  
New York, New York

Claim No. SOV-42,472

Decision No. SOV-2328

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

WESCHLER & KOHN  
286 Fifth Avenue  
New York 1, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on December 4, 1957. A copy thereof was duly served on claimant's attorneys. The claimant by its said attorneys, J. Charles Weschler of counsel, filed objections thereto together with a brief in support of the objections and requested an oral hearing.

The hearing which was originally scheduled for February 20, 1958 was adjourned to March 26, 1958. On the latter date, Mr. Weschler by telegram informed the Commission of his inability to appear. The telegram further read "you may consider my case submitted on filed papers".

Full consideration having been given to claimant's objections and brief filed in support thereof and to the entire record, and general notice of the Proposed Decision having been given by posting for thirty days as provided for by the Commission's regulations, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Dated at Washington, D. C.

APR 23 1958

*Whitney Hilliland*

*Pearl Hill*

*Henry S. Clay*

COMMISSIONERS

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

IN THE MATTER OF THE CLAIM OF

C. B. RICHARD & CO.  
50 Broadway  
New York, New York

Claim No. SOV-42,472

Decision No. SOV- 2328

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

WESCHLER & KOHN  
286 Fifth Avenue  
New York 1, New York

PROPOSED DECISION

This is a claim for \$171,374.89 plus interest by C. B. Richard & Co. against the Soviet Government under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended. The claimant asserts that the claim arose out of two "transactions" briefly stated as follows:

Transaction No. 1 - Claimant advanced for the account of Northern Railway of Moscow, Russia, hereinafter referred to as "Northern", the sum of \$112,374.89 representing the balance of purchase price for a quantity of shoes plus the cost of transportation thereof to Russia and insurance to cover shipment upon the agreement that Northern would pay sight drafts in that amount, drawn by claimant on Northern, upon receipt of the bills of lading and other documents covering the shipment. After the shipment of the shoes and on September 25, 1917, claimant drew drafts on Northern in the above amount and delivered them with accompanying shipping documents to the National City Bank of New York, hereinafter referred to as "Bank", for forwarding to Russia and collection. The shipment duly arrived at its destination in November 1917 and was confiscated by the Soviet Government. The drafts were not paid by the drawee, the Soviet Government

having theretofore and on September 1, 1918 taken over the Bank's Branch in Petrograd.

Transaction No. 2 - Claimant in 1918 had on deposit with the Bank's Petrograd Branch the sum of 1,493,862 rubles. The Bank was taken over by the Soviet Government on September 1, 1918.

As to Transaction No. 1, the record and other evidence before the Commission discloses that the claimant by absolute formal assignment dated May 18, 1931, sold, granted, assigned and conveyed to the Bank all of its right, title and interest in and to the shoes and drafts, and in and to any claim it had against any government, etc. on account of such matters. It is noted that the Bank in its claim filed with the Commission under the above Act has included this item of the instant claim, based on ownership thereof by virtue of said assignment.

As to Transaction No. 2, the record and other evidence before this Commission discloses that claimant in or about August 1922 instituted suit against the Bank for the value of its aforementioned bank deposit in Petrograd, and that it was awarded \$194,200 by the Trial Court. After decision was rendered by the Appellate Division of the New York Supreme Court in an appeal from said award the matter was settled between the parties by the Bank's payment of \$236,000 to claimant.

Claimant relies on a Memorandum of Agreement dated March 8, 1931 between itself and the Bank which provides, inter alia (as to Transaction No. 2) that if the Bank shall recover from any source on its claim on account of the ruble deposit referred to above, it will first reimburse itself therefrom the sum of Two hundred thirty-six thousand dollars (\$236,000) plus interest, and from any excess then remaining it will pay Richards (claimant herein) the sum of \$59,000. With respect to Transaction No. 1 said Agreement provides that if and when the Bank shall recover any money from any source for the shoes and/or documents covering same, the Bank shall deduct and retain the sum of \$6,000 plus interest and pay one-half of the remainder to Richards (claimant herein).

The Commission finds that claimant has no compensable claim under the Act. It assigned its rights, title and interest under Transaction No. 1 to the Bank and it was paid for its bank deposit under Transaction No. 2. Claimant's rights or remedies, if any, under and by virtue of the Agreement of May 8, 1931 are against the Bank and are controlled by said Agreement.

In view of the foregoing it becomes unnecessary to consider and determine any of the other elements bearing upon claimant's eligibility.

The claim must be and hereby is denied in whole.

Dated at Washington, D. C.

DEC 4 1957

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FOR THE COMMISSION:

  
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Joseph Stein, Director  
Soviet Claims Division