

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

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In the Matter of the Claim of :

ADELAIDE V. DUNCAN, Individually  
AND AS Executrix of the Will of  
JOSEPH S. DUNCAN, Deceased  
5555 Everett Avenue  
Chicago 37, Illinois :

Docket No. Y-310

Decision No. 1158

Under the Yugoslav Claims Agreement  
of 1948 and the International Claims  
Settlement Act of 1949 :

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Counsel for Claimant:

HUBERT VAN HOOK, Esquire  
134 South LaSalle Street  
Chicago 3, Illinois

FINAL DECISION

Thirty days, or such extended time as may have been granted by the Commission, having elapsed since the Claimant(s) herein and the Government of Yugoslavia were notified of the Proposed Decision of the Commission on the above Claim, and no objections thereto or notice of intention to file brief or request for hearing having been filed, or, if filed, no further evidence or other representations having been offered pursuant to the opportunity duly afforded therefor, such Proposed Decision is hereby adopted as the Commission's final decision on this Claim.

Done at Washington, D. C.

OCT 20 1954

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*Oct 8, 1954*



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PROPOSED DECISION OF THE COMMISSION

This is a claim for \$8,925 by Adelaide V. Duncan, individually and as Executrix of the Estate of Joseph S. Duncan, deceased, and is for the taking by the Government of Yugoslavia of 500 shares of the capital stock of the First Croatian Savings Bank of Zagreb, Yugoslavia, the stock assertedly having been purchased on July 28, 1928. Mrs. Duncan claims ownership of 250 shares in her own right and the remaining 250 shares as Executrix under the will of her husband, Joseph S. Duncan, who died on May 11, 1950. Claimant and her late husband were born in the United States and retained United States citizenship.

The claimant has not filed corroborating evidence with respect to ownership, the nationalization or other taking of the First Croatian Savings Bank of Zagreb by the Government of Yugoslavia, or the value of its stock at the time of taking. The Commission requested the Government of Yugoslavia to furnish such evidence pursuant to Article 9 of the

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Agreement of July 19, 1948, between the Governments of the United States and Yugoslavia. In response to that request the Government of Yugoslavia has advised that it has been unable to verify claimant's stock-ownership. It is, however, unnecessary to decide that question because the claim must be denied on other grounds.

That Government has also advised that it did not nationalize or take the Bank, but that it was liquidated, liquidation proceedings having been completed in 1949; that the Bank had assets of 213,547,661.70 dinars and liabilities of 248,044,127.29 dinars, for a deficit of 34,496,465.59 dinars, thus leaving no funds for payment to stockholders and rendering the shares valueless; that the liquidation proceedings were conducted pursuant to orderly judicial procedures; and that the financial condition of the bank was brought about by economic distress in past years and not by or through governmental action. The Government of Yugoslavia has advised further that the assets and shares of stock of the Bank were ordered confiscated pursuant to court proceedings because of cooperation between the Bank and the enemy during the war, but that, because of the Bank's insolvent condition, it was not actually nationalized or taken. It is inferred therefrom that although the Bank would not have been allowed to continue in operation because of its political offense, its poor financial condition made it unnecessary or undesirable for the Government to acquire the enterprise.

In relating the events leading to the Bank's liquidation, the Government of Yugoslavia reports that the institution held large amounts of money from depositors; that, in earlier years, it invested heavily in manufacturing, trading and other economic enterprises; that at the beginning of the economic crisis in Yugoslavia in 1931, depositors in large numbers requested payment; that the Bank was not in a sufficiently liquid condition to meet these demands and, accordingly, was the first bank to request a moratorium, which was granted by decree of April 21, 1932;



Article 12

\* \* \*

"If the Court finds that the total amount of the claims of creditors exceeds the appraised value of the confiscated property, it shall classify the claims according to the following order of payments:

1. Confiscation and liquidation expenses;
2. Unpaid public dues and contribution to the Social Insurance Fund;
3. Salaries and other emolument of the persons who have been in the employ of the confiscated credit enterprises during the year before confiscation;
4. Monetary deposits which do not exceed the sum of \$5,000;
5. Claims of government-owned economic enterprises and claims of the cooperatives;
6. All other claims [creditors].

"The creditors who come first according to the above order of payment exclude those who come after them, while the creditors who come under the same class shall be paid in proportion to their claims."

Since, as indicated, the funds were insufficient to satisfy all of the depositor and creditor claims, and as the stockholders obviously could not expect payment in satisfaction of their interests in the light of the insolvent condition of the Bank, the shares of stock must be viewed as having been without apparent value at the time of liquidation.

On the basis of the foregoing the claim would have to be denied because the Agreement between the Governments of the United State and Yugoslavia provides compensation for the "nationalization or other taking of property" and not for losses resulting from war, currency fluctuations, depressions and other causes or forces which the Government of Yugoslavia could not prevent or control.

As pointed out above, claimant has submitted no corroborating evidence bearing upon the value of the stocks or the asserted nationalization or other taking. The burden of proving the right to compensation from



that the moratorium continued until the war - presumably 1941; that great losses were sustained by the Bank because of the fall in value of its investments, to the extent that creditors attempted to sell their interests for 40 percent of their total claims; and that no dividends were paid from and after 1931, with the result that the shares of stock were not marketable. Additionally, that Government advises that upon the creation of the Independent State of Croatia in April 1941, the Bank converted a large part of its pre-war assets into occupation currency at the rate of one kuna to one dinar and that, following severe inflation during the occupation and upon the liberation of Yugoslavia, the conversion of the occupation currency was effected in June 1945 at the rate of 1,000 kunas to 7 dinars, with pre-war claims being converted at the rate of ten to one. These currency transactions, it is said, caused the Bank to suffer great losses.

The Government of Yugoslavia also filed with its report a copy of a decision of the County Court in Zagreb which, pursuant to a prior Governmental decree, adjudged the liquidation of the First Croation Savings Bank. Based upon proceedings conducted on July 15, 1949, the Court ordered the distribution of the assets of 213,547,661.70 dinars to the following classes of creditors in the following amounts, pursuant to the "Decree on Liquidation of the Relation Created by the Confiscation of Property (Assets) of the Private Credit Enterprises" (Official Gazette No. 19, March 5, 1949):

- |  |                             |
|--|-----------------------------|
| 1. Creditors of the I-V payment class at 100% of their claims . . . . .                  | 174,647,391.99 dinars       |
| 2. Creditors of the VI payment class at 55% of a total of 70,396,735.30 dinars . . . . . | <u>38,900,269.71 dinars</u> |
| TOTAL . . . . .  | 213,547,661.70 dinars       |

The decree of March 5, 1949, sets forth the classes of creditors as follows:



the fund established by the Agreement between the Governments of the United States and Yugoslavia, rests upon each claimant. It is an obligation which cannot be shifted to the Commission. This is not a matter of legal doctrine. As briefly explained below, the Commission is mindful of, and in sympathy with, the difficulties which sometimes attend efforts of claimants to obtain evidence in support of their claims. For that reason, within the bounds of practicability, every effort is made by the Commission to obtain evidence for claimants and to verify reports and data furnished by the Government of Yugoslavia. However, the problems and difficulties presented by this claim, and approximately forty other claims of a similar nature, and our doubts concerning their legal validity, are so great that it is impracticable for the Commission even fully to explore the several theoretical possibilities which exist in order to determine initially whether a **likely** basis for a claim might be created. The situation of the Yugoslav banks and banking system prior to the war, the war itself and resulting inflation, destruction of property, currency changes, and the like, are some of the reasons why independent investigation of the liquidation data furnished by the Government of Yugoslavia, if undertaken, likely would not be productive.

For example, we know from data and records of the Commission, and our own investigations in Yugoslavia, that following the boom of the '20's, Yugoslav banks suffered especially from two depressive causes: (1) The agricultural crisis occasioned a series of moratoria after 1931 with the reduction of farm debts by 50% (in December, 1939, 353 banks, out of a total of approximately 600, were under moratorium); and (2) the general industrial decline which make it impossible for many banks which had invested in hotels, lumber and paper mills, electric plants and other industrial enterprises, to liquidate such investments without great loss.



(In the instance of the First Croatian Savings Bank of Zagreb, the Government of Yugoslavia reports that "from 1931 on no dividends were paid. Consequently, from 1935 on these shares were not marketable.") We also know that the war caused great inflation in Yugoslavia; that former Yugoslav currency was converted into "occupation currency" which in turn was reconverted into post-war Yugoslav currency; that during the war approximately half of Yugoslav industry was destroyed by war activity, with the result that banking institutions which had invested in such enterprises were left with diminished or destroyed security for such investments and that there were other economic forces and factors which impaired the financial condition of all financial institutions.

It is thus apparent that, even if data were available, any attempted appraisal of the net worth of any such bank at a time preceding the war would encounter the difficulty of assets seemingly over-depressed in value, while post-war valuations are affected by the aspect of inflation, war currencies, and other war-connected events. Moreover, this is not a situation wherein we might speculate whether the banks might have attained profitable operations during a period of sound reconstruction. The incidence of the war, with its involuntary effects, makes any such inquiry of little significance.

However, in an effort to provide as much assistance as possible, the Commission undertook, through its own investigators, to discover whether, even assuming a nationalization of all private banks by the Government of Yugoslavia, proper valuation data existed upon which awards could be made. It was ascertained that, first, proper records, at least of the kind which would be needed for an objective examination, either have been destroyed or for other reasons very likely would not be available. Second, even if all necessary records could be obtained, a monumental task of appraisal and valuation would be presented. Thus, an attempted evaluation of every piece of property and property right



and interest, including industrial investments, of every bank involved in the claims, would take years of work by a large staff of experts. Obviously, such a course would be wholly impracticable. At least, it would constitute a burden which this Commission could not undertake.

Finally, even under the most favorable circumstances, the expense of proving a claim of this kind would, in many instances, be wholly out of proportion to the property rights claimed. In the instance of this claim, ownership of 500 shares of stock is asserted. According to Compass, 1940 issue, a financial publication, the First Croatian Savings Bank, Inc., then had outstanding 150,000 shares of common stock at 500 dinars par value each, and 40,000 shares of preferred stock at 500 dinars each. Assuming claimant's asserted shares to have been common stock, an ownership interest of .3% would need to be balanced against the expense and effort of evaluating an entire banking institution. In the circumstances, the claim must be denied upon the ground that the claimant has failed to present a proper basis upon which an award may be made.

For the foregoing reasons, the claim is denied.

Dated at Washington, D. C.

August 19, 1954