

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

IN THE MATTER OF THE CLAIM OF

FRANK BUHN
ANNA BUHN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. RUM-2-062

Decision No. RUM-2- 317

PROPOSED DECISION

This claim, for \$15,000.00, under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, against the Government of Rumania, is based upon the asserted ownership and loss of certain improved real property at No. 11 O. Josif Street in Brasov, Rumania, and uncollected rental income from the same property. The claimants, FRANK BUHN and ANNA BUHN, have been nationals of the United States since their naturalization on June 24, 1929.

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, which provides, among other things, for

(b) Claims for the nationalization, compulsory liquidation, or other taking, prior to the date of this Agreement of property, rights and interests of nationals of the United States of America in Rumania; (Article I(1)(b) of 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)).

Information furnished in 1946 to the Department of State by Johann Buhn, a resident of Brasov, Rumania, and information supplied by the Rumanian Foreign Office, show, and the Commission finds that the claimants, FRANK BUHN and ANNA BUHN, each owned a one-half interest in the improved real property at No. 11 O. Josif Street in Brasov, Rumania, recorded in liber No. 20275 of Brasov as land parcel No. 2089/1/b/3, on or about September 30, 1959, the date when it was taken by the Government of Rumania.

The evidence mentioned and a photograph of the improvements further show that the subject property consisted of a land parcel of undetermined area improved by a three-story dwelling house, presumably built in the nineteen twenties.

Upon consideration of the foregoing, including evidence of values of comparable property in Rumania, the Commission further finds that the subject property had the value of \$14,000.00 on the date of loss; and concludes that claimants are each entitled, under Section 303(4) of the Act, supra, to compensation in the amount of \$7,000.00.

A portion of the claim is based upon uncollected rental income from the subject property for 19 years.

The rental income for the period preceding the date of loss is not ascertainable. However, even if such rentals would be ascertainable, the claimants could not assert a loss, because in the post-World War II period the rentals from apartments in Rumania were so low that they barely covered the taxes, maintenance expenses and other outlays for repairs. Rents for any period after September 30, 1959, the date of loss, belong to the Government of Rumania rather than to the claimants, the previous owners of the property, and are not a proper basis for a claim under Section 303(4) of the Act, supra. Compensation is granted to the claimants in the form of 6% interest on the awards for the subject property

from the date of loss, as stated below, and no additional compensation appears justifiable. (See the Claim of Syda S. Spitzer, Claim Nos. PO-5212 and PO-5583 (FCSC Dec. & Ann. 487, 490, 491 (1968).) Accordingly, the portion of the claim which is based upon uncollected rental income must be and it is hereby denied.

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).

A W A R D S

An award is made to FRANK BUHN in the principal amount of Seven Thousand Dollars (\$7,000.00), with interest thereon at the rate of 6% per annum from September 30, 1959, the date when the claim arose, to March 30, 1960, the date when the Rumanian Claims Agreement entered into force, in the sum of Two Hundred Ten Dollars (\$210.00); and

an award is made to ANNA BUHN in the principal amount of Seven Thousand Dollars (\$7,000.00), with interest thereon at the rate of 6% per annum from September 30, 1959, the date when the claim arose, to March 30, 1960, the date when the Rumanian Claims Agreement entered into force, in the sum of Two Hundred Ten Dollars (\$210.00).

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

JUL 14 1971

Lyle S. Garlock
Lyle S. Garlock, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

This is a true and correct copy of the Proposed Decision of the Commission as entered on the Commission's records on AUG 16 1971
Clork of the Commission

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.)