

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

IN THE MATTER OF THE CLAIM OF

GUARANTY TRUST COMPANY OF NEW YORK  
140 Broadway  
New York 15, New York

Claim No. SOV-41,460

Decision No. SOV-3041

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72120-1

FINAL DECISION

The Commission issued its Proposed Decision on the above-captioned claim on April 27, 1959. A copy thereof was duly served on the claimant herein, who filed objections solely to that portion of said Proposed Decision which disallowed two items of the claim, namely (1) \$73,048.05 due claimant, as the result of the unpaid balance of an acceptance credit of the former Russian and English Bank, and (2) \$1,322.69 representing an overdraft due claimant from the former Banque de l'Union.

Objections to the aforementioned Proposed Decision have also been filed by Nordlinger, Riegelman, Benetar & Charney, Esquires, in behalf of Charles B. Mergentime who filed a claim with this Commission (Claim No. SOV-41,077), and in behalf of C. B. Mergentime Trading Corporation, who likewise filed a claim with this Commission (Claim No. SOV-41,076).

Due consideration having been given to both of the aforementioned objections, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that the principal amount of the award granted to claimant herein (Guaranty Trust Company of New York) be and the same is hereby increased by \$74,370.74 (representing the two items identified above),

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together with interest thereon at the rate of 6% per annum from December 28, 1917 to November 16, 1933, in the amount of \$70,875.32, and that in all other respects the Proposed Decision herein, be and the same is hereby affirmed. Accordingly, it is

FURTHER ORDERED that the award granted in the Proposed Decision be and the same is hereby restated as follows:

A W A R D

On the above grounds, and upon the entire record, an award is hereby made to claimant, GUARANTY TRUST COMPANY OF NEW YORK, in the principal amount of Nine hundred sixty thousand eight hundred and twenty-seven dollars and eighty-one cents (\$960,827.81), together with interest in the amount of Nine hundred fifteen thousand six hundred sixty-eight dollars and ninety-one cents (\$915,668.91).

Payment of the award herein, in whole or in part, shall not be construed to have divested claimant herein, or the Government of the United States on its behalf, of any rights against the Government of the Soviet Union for the unpaid balance, if any, of the claim.

ORDERED that the award granted pursuant hereto be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

ZRR  
*[Handwritten signature]*

JUL 13 1959

*Whitney Hilliland*  
*Paul Pace*  
*Robert L. Kunzig*

COMMISSIONERS

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
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PROPOSED DECISION

Guaranty Trust Company of New York, claimant herein, has filed three separate claims against the Soviet Government under Section 305 (a)(2) of the International Claims Settlement Act of 1949, as amended. These separate claims are hereinafter designated as (1) "Original Claim", (2) "Pledgee Claim" and (3) "Supplemental Custody Claim".

The Commission finds that claimant qualifies as a national of the United States as defined by Section 301(2)(B) of the Act.

Original Claim

This claim, as amended, originally in the principal amount of \$11,780,423.01, is based on the following:

Item A: The taking by the Soviet Government of demand deposits in the aggregate amount of 54,691,778.98 rubles standing to claimant's credit in 12 former Russian-owned banks and in the Petrograd branches of the Credit Lyonnais and The National City Bank of New York, all hereinafter collectively referred to as "correspondent banks".

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Item B: The taking by the Soviet Government of Imperial Russian ruble bonds in the aggregate face amount of 382,000 rubles.

Item C: The unpaid balance of an acceptance credit issued with the undertaking of Russian and English Bank (one of the Russian-owned banks referred to in Item A) in the amount of \$73,048.05, which according to a statement in the Memorial filed with the Department of State was in the amount of \$73,315.85.

Item D: Overdraft due from Banque de l'Union (another Russian-owned bank referred to in Item A) in the amount of \$1,322.69.

Item A

The Commission finds that on December 27, 1917, claimant had demand deposits to the credit of its account with its correspondent banks in the aggregate net credit balance of 42,378,389.93 rubles, computed as follows (all figures represent rubles):

Credit

12 Russian-owned banks	47,855,499.73
Petrograd branch of Credit Lyonnais	2,295,949.53
Petrograd branch of the National City Bank of N. Y.	<u>4,540,329.72</u>
Total	54,691,778.98

Debit

Sales by claimant to its customers of cable transfers, letters of delegation and drafts drawn on the aforesaid Credits, which transactions were never completed (referred to by claimant as "abatement")

12 Russian-owned banks	12,273,307.37
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Petrograd branch, Credit Lyonnais	19,759.35
Petrograd branch, The National City Bank of New York	<u>946,322.33</u>
Total	13,239,389.05
Less transactions included in the above "Debit" items which were subsequently settled by claimant with 3 of its customers	<u>-926,000.00</u>
Total Net Debit	<u>12,313,389.05</u>
Net Credit Balance	<u>42,378,389.93</u>

By decree dated December 27, 1917, the Soviet Government nationalized Russian-owned banks. Russian Branches of foreign-owned banks were not covered by said decree but were subsequently liquidated by the Soviet Government. However, the Commission finds that as the result of restrictions and regulations promulgated to implement the nationalization, deposits standing to the credit of United States nationals in foreign-owned banks as well as Russian-owned banks were taken by the Soviet Government on December 28, 1917.

Statistics available to the Commission establish that the exchange rate of the ruble on the New York market as of December 28, 1917 was 13 cents per ruble.

In view of the foregoing, the Commission finds that claimant's net ruble demand deposits with its correspondent banks were taken by the Soviet Government on December 28, 1917 and that the equivalent dollar value of such deposits was \$5,509,190.69.

Item B

The Commission finds that claimant had on deposit with several of its correspondent banks, Imperial Russian Government bonds in the aggregate face amount of 382,000 rubles; that these bonds were likewise

taken by the Soviet Government on December 28, 1917; and that the value of said bonds when so taken, based on the exchange rate of 13 cents per ruble, was \$49,660.00.

Items C and D

Claimant carried on its books a number of dollar deposits to the credit of certain Russian-owned correspondent banks. The aggregate credit balances of these were far in excess of the amount of the unpaid balance of the acceptance credit plus the overdraft. The claim for these two items is, therefore, disallowed.

Pledgee Claim

This claim in the principal amount of \$428,080.10 is based on the taking by the Soviet Government of securities having a total par value of 2,730,900 rubles (\$355,017.00 at the rate of 13 cents per ruble) which John McGregor Grant, Inc. (hereinafter referred to as "Grant") deposited with the Petrograd Branch of Russo-Asiatic Bank as collateral security for the repayment of loans made by claimant to Grant.

The record discloses that the Russo-Asiatic Bank acknowledged receipt of the aforementioned securities between December 1916 and October 1917 and undertook to hold them for claimant's disposal and not to release them to Grant until January 14, 1918. The balance due claimant for loans made to Grant, as of December 28, 1917, was \$635,667.71. Grant subsequently paid claimant \$348,093.40 in reduction of such loans leaving a balance of \$287,574.31. In 1928, claimant instituted suit against Grant and recovered a judgment by default for this balance, plus interest and costs, but was unable to collect any part thereof.

The Commission finds the Soviet Government took the securities without compensation on December 28, 1917; that as the result thereof, claimant was deprived of its rights and remedies to apply these pledged securities towards the satisfaction of Grant's obligation and that by reason thereof, claimant has a valid claim against the Soviet Government for said taking to the extent of \$287,574.31.

Supplemental Custody Claim

This claim, in the principal amount of \$1,595,392.60, is based on the taking by the Soviet Government of securities on deposit with several correspondent banks in the name of claimant for account and risk of a number of claimant's customers. Claimant, by letter of November 5, 1958, has requested the withdrawal of this claim. The request is hereby granted.

Summary of Losses before Offset

The aggregate amount of losses sustained by claimant before Offset are summarized as follows:

Item A	\$5,509,190.69
Item B	49,660.00
Pledgee Claim	<u>287,574.31</u>
Total	\$5,846,425.00

Offset

The record discloses that Section Etrangere Ministere de Finance, Petrograd, had on deposit with claimant, the sum of \$4,959,967.93. In 1934, the Government of the United States, as assignee under the Litvinov Assignment, instituted suit against the claimant for the recovery of said deposit (fund). However, claimant

was successful in defeating the action (based on its affirmative defense that this action was barred by the statute of limitation) and thus retained the fund. <sup>1/</sup> The Commission finds that the amount of this fund, to wit, \$4,959,967.93, is a proper offset against the claimant's losses of \$5,846,425.00, as determined above.

Accordingly, the Commission concludes that claimant is entitled to an award in the principal amount of \$886,457.07 with interest thereon at the rate of 6% per annum from December 28, 1917 to November 16, 1933, the date of the Litvinov Assignment, in the amount of \$844,793.59.

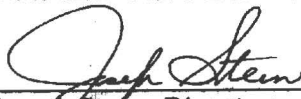
A W A R D

On the above grounds, and upon the entire record, an award is hereby made to claimant, GUARANTY TRUST COMPANY OF NEW YORK, in the principal amount of Eight hundred eighty-six thousand four hundred fifty-seven dollars and seven cents (\$886,457.07), together with interest in the amount of Eight hundred forty-four thousand seven hundred ninety-three dollars and fifty-nine cents (\$844,793.59).

Payment of the award herein, in whole or in part, shall not be construed to have divested claimant herein, or the Government of the United States on its behalf, of any rights against the Government of the Soviet Union for the unpaid balance, if any, of the claim.

Dated at Washington, D. C.

FOR THE COMMISSION:

  
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Joseph Stein, Director  
Soviet Claims Division

APR 27 1959

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<sup>1/</sup> See United States v Guaranty Trust  
Company of New York 100 Fed 2nd, 369