

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

IN THE MATTER OF THE CLAIM OF
NEW YORK LIFE INSURANCE COMPANY
51 Madison Avenue
New York 10, New York

SOV-41,029

Claim No.

SOV- 3/25

Decision No.

Under the International Claims Settlement
Act of 1949, as amended

~~Counsel for~~ Claimant:

SULLIVAN & CROMWELL
48 Wall Street
New York 5, New York

PROPOSED DECISION

This is a claim for \$31,416,804.84 plus \$27,897,166.03 interest by New York Life Insurance Company against the Soviet Government under Section 305(a)(2) of the International Claims Settlement Act of 1949, as amended.

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

The claim is based on the loss sustained by claimant as the result of confiscation by the Soviet Government of claimant's assets in Russia. Claim is also made for legal fees and expenses incurred by claimant from 1924 to November 16, 1933, in connection with claims and actions against claimant herein based on insurance policies issued by claimant in Russia. Specifically, the instant claim is comprised of the following items:

PRINCIPAL

(1) Bonds on deposit with the Russian State Bank and with the Volga Kama Commercial Bank in Petrograd, plus due and accrued interest thereon to December 1, 1918, which claimant values at	\$28,462,716.73
(2) Cash on deposit in Russian Banks including deposits with the Moscow and Petrograd branches of The National City Bank of New York, in the aggregate amount of 12,863,262.39 rubles, which claimant values at	2,444,019.85
(3) Sundry cash items and Russian bank transfers not included in Item (2) above, in the aggregate amount of 188,356 rubles, which claimant values at	35,787.75
(4) Furniture in claimant's Russian offices which claimant values at	9,105.79
(5) Legal fees and expenses paid from 1924 to November 16, 1933, in connection with claims and actions against claimant on its Russian policies	<u>465,254.72</u>
TOTAL PRINCIPAL	\$31,416,884.84

INTEREST

Interest on Items (1) through (4) above at 6% per annum from December 1, 1918, to November 16, 1933	27,779,088.03
Interest on Item (5) above at 6% per annum from June 30 of respective years of payment to November 16, 1933	<u>118,078.00</u>
TOTAL INTEREST	\$27,897,166.03

Claimant, a domestic life insurance company, conducted a branch in Russia under a revocable concession granted by the former Emperor of Russia by decree dated November 5, 1885. In connection therewith, claimant was required to and did maintain a reserve fund to secure the payment of its liabilities under policies which it issued in Russia. The reserve fund consisted of bonds issued by the Imperial Russian Government, and of bonds of Russian Railways which were guaranteed by the Imperial Russian Government. Said bonds (reserve fund) were deposited with the State Bank, Petrograd Office, and with the Volga Kama Commercial Bank in Petrograd. Additionally, claimant maintained

ruble deposits with the latter named bank as well as with the Russian Bank for Foreign Trade and with the Petrograd and Moscow branches of The National City Bank of New York.

The record discloses that claimant discontinued writing new insurance policies in Russia as of December 21, 1917, which was shortly after the Bolshevik Revolution in November 1917. By decree, published February 10, 1918, the Soviet Government annulled all bonds issued and/or guaranteed by former Russian Governments. Thereafter, by decree dated December 1, 1918, the Soviet Government declared insurance in all of its forms a state monopoly. Said decree further declared that all insurance organizations then functioning within the boundaries of the "Russian Republic shall be the property of the State (Soviet Government)". On December 5, 1918, claimant's offices in Moscow were "sealed up" by the Soviet authorities; all of claimant's assets in Russia were placed under the control of the Soviet Fire Insurance Department which agency continued to accept premiums; claimant's office equipment, furnishings, policies held by claimant as collateral, and all of the books and records contained in its said offices were taken over by the Soviet Supreme Council of National Economy and by another Soviet Agency. Subsequently, and by decree dated November 18, 1919, the Soviet Government abolished insurance in all its forms and annulled insurance contracts then in force.

The Commission finds that the bonds, which were deposited by claimant as aforesaid, were annulled by virtue of the decree of February 10, 1918, and that the claimant's remaining assets in Russia (bank accounts, sundry cash items, bank transfers, office equipment and furnishings) were taken by the Soviet Government, without compensation, on December 1, 1918.

ITEM (1) BONDS

As evidence of ownership of the bonds, claimant has submitted:

(1) A photostatic copy of an instrument dated "August 1, July 1917" issued by the State Bank, Petrograd Office, Division of Deposits For Safe Keeping, which certifies that said bank had on deposit "under special conditions", on July 3, 1917, interest bearing securities belonging to the claimant and credited to the accounts of claimant's Guarantee Capital, Reserve Capital and Reserve Fund.

[Claimant's Document 11-A-2]

The aforesaid instrument lists 25 separate issues of Imperial Russian Government and Russian Railways bonds, "par value in 1/10 & 1/15 Imp." in the aggregate amount of 42,058,956 rubles; "par value in credit rubles" 50,433,890.35.

(2) A photostatic copy of a letter dated June 16/29th 1918, addressed to claimant by the Commissar of the former Volga Kama Commercial Bank informing claimant that said bank has on deposit to claimant's current account, as a guarantee, Moscow Kieff Voronej Railway bonds for 1,031,250 rubles. [Claimant's Document 11-A-3]

The total par value of the aforementioned bonds, in credit rubles, was thus 51,465,140.35. This is in accord with claimant's computation.

[Claimant's Exhibit 11-A]

Statistics available to the Commission establish that the value of the ruble on the New York market as of February 10, 1918, was 13 cents per ruble. Accordingly, the Commission finds that claimant sustained a loss in the amount of \$6,690,468.25 by reason of the annulment of its bonds.

Interest on the bonds to December 1, 1918, is disallowed since claimant has failed to establish that it owned any unpaid interest coupons due and payable as of that date.

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ITEM (2) CASH DEPOSITS

The record establishes that claimant had on deposit with Russian banks and with Russian branches of The National City Bank the aggregate amount of 12,863,262.39 rubles and that said ruble deposits were taken by the Soviet Government on December 1, 1918.

Statistics available to the Commission establish that the value of the ruble on the New York market as of December 1, 1918, was 14 cents per ruble. Accordingly, the Commission finds that claimant sustained a loss of \$1,800,856.73 by reason of the taking of its cash bank deposits.

ITEM (3) SUNDRY CASH ITEMS

The record establishes that claimant owned cash, checks and bank transfers, not included in Item (2) above, in the aggregate amount of 188,356.60 rubles, which were likewise taken by the Soviet Government, on December 1, 1918. Based on the dollar equivalent of the ruble on that date, as indicated above, the Commission finds that claimant sustained a loss of \$26,369.92 by reason of the taking of the cash and sundry cash items which comprise this Item (3).

ITEM (4) FURNITURE

The record establishes that claimant maintained a completely furnished suite of offices in Moscow; that all of the furniture, furnishings, safes, typewriters and sundry office equipment contained therein, of the value of \$9,105.79 were taken by the Soviet Government on December 1, 1918; and that by reason thereof claimant sustained a loss of \$9,105.79.

ITEM (5) LEGAL FEES AND EXPENSES

The Commission holds that this item is not compensable under Section 305(a)(2) of the Act. Accordingly, the claim based thereon is hereby disallowed.

OFFSET

Claimant has submitted an approximate statement reflecting the assets and liabilities of its total Russian business operations as of December 31, 1918. [Claimant's Document 17-A-6] This statement shows liabilities in the total amount of 64,259,585.03 rubles. However, for the purpose of arriving at their net liabilities, three items, namely, "Guaranty Fund Property of the Company", "Reserve Capital as it stood at end of 1916", and "Security Fluctuation Fund as it stood at end of 1916", in the aggregate amount of 1,643,427.19 rubles appear to be neither actual nor potential liabilities. Consequently, the net liabilities, totalling 62,616,157.84 rubles, at the dollar equivalent of 14 cents per ruble, as of December 1, 1918, amount to \$8,766,262.10.

As heretofore stated, the Soviet Government by decree dated November 18, 1919, annulled all insurance contracts. Claimant's Russian policy holders and/or their beneficiaries thus found themselves without any rights or remedies to enforce the contracts of insurance against that Government. A number of lawsuits based on such contracts were instituted thereafter against claimant in the United States. Prior to recognition of the Soviet Government by the United States, the New York courts held claimant liable on these contracts, despite the fact that such contracts were annulled by the Soviet Government.^{1/}

The Commission finds that claimant paid out \$5,267,413 in settlement of such lawsuits and for claims on approximately 20,500 policies which it had issued in Russia. [Claimant's Exhibit 17-A] It

^{1/} See: Slisberg v New York Life Insurance Co., (1926)
217 App. Div. 685

appears that the major portion of these settlements were made at the exchange rate of 12 cents per ruble. [Claimant's Documents 17-A-1 and 17-A-4]. The Commission concludes that in equity and justice, this amount should be deducted from \$8,766,262.10, claimant's net liabilities as determined above. Accordingly, the Commission finds that the offset should be limited to \$3,498,849.10.

RECAPITULATION

PRINCIPAL

LOSSES

ITEM (1)	Bonds	\$6,690,468.25
ITEM (2)	Cash Deposits	1,800,856.73
ITEM (3)	Sundry Cash Items	26,369.92
ITEM (4)	Furniture	<u>9,105.79</u>
	TOTAL LOSSES	\$8,526,800.69
	LESS OFFSET	<u>3,498,849.10</u>
	NET PRINCIPAL LOSS	\$5,027,951.59

INTEREST

The Commission finds that claimant is also entitled to interest at the rate of 6% per annum on Item (1) from February 10, 1918, the date of the annulment of the bonds, to November 16, 1933, the date of the Litvinov Assignment (Section 301(6) of the Act), in the amount of \$6,329,182.96, and on Items (2), (3) and (4) from December 1, 1918, the date of taking of the other assets, to November 16, 1933, in the amount of \$1,648,108.36. From the total amount of interest of \$7,977,291.32, the interest (at the rate of 6% per annum) on the offset of \$3,498,849.10 from February 10, 1918 to November 16, 1933, in the amount of \$3,309,911.25 must be subtracted. The total aggregate sum of the interest to which claimant is entitled therefore amounts to \$4,667,380.07.

A W A R D

On the above evidence and grounds and upon the entire record an award is hereby made to claimant, NEW YORK LIFE INSURANCE COMPANY, in the principal amount of five million twenty-seven thousand nine hundred

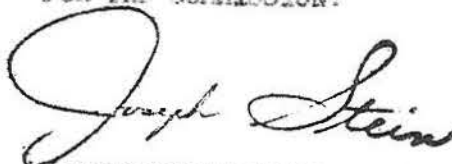
fifty-one dollars and fifty-nine cents (\$5,027,951.59), plus interest in the amount of four million six hundred sixty-seven thousand three hundred eighty dollars and seven cents (\$4,667,380.07). No determination is made with respect to interest for any period subsequent to November 16, 1933.

Payment of the award herein shall not be construed to have divested claimant herein, or the Government of the United States on claimant's 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.

JUN 1 1959

FOR THE COMMISSION:



Joseph Stein, Director
General Claims Division

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

IN THE MATTER OF THE CLAIM OF

NEW YORK LIFE INSURANCE COMPANY
51 Madison Street
New York 10, New York

Claim No. SOV-41,029

Decision No. SOV-3123

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

SULLIVAN & CROMWELL
48 Wall Street
New York 5, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on June 1, 1959, a copy of which was duly served upon counsel for claimant, who filed objections thereto and requested a hearing. The hearing was scheduled for July 13, 1959. By letter dated June 17, 1959, counsel for claimant informed the Commission that claimant was withdrawing its objections and the request for a hearing on such objections.

General notice of the Proposed Decision having been given by posting for thirty days, it is

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

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

Washington 25, D. C.

JUN 17 1959

Walter R. King
COMMISSIONERS

SCHEDULE I

PROVISIONAL RUSSIAN GOVERNMENT 5% TREASURY NOTES
ISSUED MAY 1, 1917, PAYABLE MAY 1, 1918,
PAYMENT EXTENDED TO MAY 1, 1919

205 Notes for \$10,000 each

X 1 to X 100, inclusive

X 151 to X 255, inclusive

57 Notes for \$5,000 each

V 1 to V 200, inclusive

V 501 to V 800, inclusive

V 804 to V 850, inclusive

2,175 Notes for \$1,000 each

M 301 to M 500, inclusive

M 551 to M 600, inclusive

M 801 to M 2275, inclusive

M 2301 to M 2750, inclusive

SCHEDULE II

IMPERIAL RUSSIAN GOVERNMENT FIVE YEAR FIVE AND ONE-HALF
PER CENT BONDS DATED DECEMBER 1, 1915

1,226 Dollar Bonds for \$1,000 each

121	3079/35	5369	11995/6	13508/11
520	3230	5383/4	12110/1	13518
618	3282	5387	12176	13634
658/60	3354	5391/4	12199	13641/5
665/6	3365/6	5467	12261/5	13690
748	3381	5504/5	12313	13752
799/808	3385	5514/6	12326	13769
919	3412	5524/8	12362	13786
921	3431	5531/55	12382	13835
923/34	3449	5646	12391/2	13876/82
939	3479	5677/8	12396	13899/902
943	3535/9	5728	12442/3	13905
967/8	3595	5743/4	12445	13937
1228	3597	5923	12460/9	13974
1434/5	3599	5939	12471/5	13982
1458/61	3600/1	11087	12483	13998/9
1466	3603/5	11120	12490/1	14018
1610/1	3607/10	11123	12499/502	14038
1633	3612	11206/7	12507	14082/4
1635	3637/8	11211/3	12523/5	14095/6
1791	3696	11221	12557/8	14098
1843	3746	11223	12659/9	14133
1985	3773	11245	12663/4	14259/61
2050/3	3777/801	11284	12717/8	14284/5
2147	3857	11301/2	12723/4	14296/8
2149	3901/3	11305/9	12726/7	14309
2153	3937	11312/25	12730/3	14314
2163	3949/56	11392/3	12744/5	14341/8
2193/4	3958	11467/9	12819/31	14363/6
2239	4077/20	11472/6	12836	14382
2260	4347	11479	12838/9	14413
2263/4	4354	11511/4	12844	14423/9
2761/5	4382	11571/2	12846/52	14444/7
2776/7	4502	11584/7	12854	14472/3
2890/4	4506/7	11591	13136	14483/4
2908	4597	11615/9	13339	14571
2915/6	5187	11622/6	13341/2	14573
3021/32	5200	11635	13348/50	14599/601
3041	5229	11711	13358/64	14836/41
3044/5	5230	11713/4	13373/5	14865
3063/5	5237	11807/8	13381	15149/53
3110/20	5243/7	11897/946	13390	15155
3201/20	5278	11975	13400/4	15292

SCHEDULE II (con't)

15355/6	17298	19391	21176
15465	17341/5	19393	21479
15487/74	17351/2	19407	21494/5
15510	17367	19418	21833/7
15512/657	17383	19421	22403/12
15672/6	17426	19423	
15711/5	17456	19426	
15717/9	17528/32	19436/8	
15736	17565	19528	
15849/2	17571/5	19604	
15879	17642/5	19634	
15881	17704	19644	
15894/5	17848	19648/9	
15979/82	17853	19655/7	
15983	18100/4	19659	
16001/2	18182/4	19756	
16010	18389	19763/4	
16030	18430/2	19790/4	
16036	18445/56	19811	
16047/50	18479/80	19836/7	
16058/60	18485/90	19855	
16066/81	18494/7	19873/7	
16088/92	18499/503	19882	
16103/4	18509/12	19897/901	
16137/8	18520/1	19904/13	
16153	18583	19957	
16155	18609	19977	
16162/219	18798/9	20003/6	
16227/8	18832	20011	
16250/2	18851/2	20016	
16297/300	18943/5	20023	
16302	18999	20030	
16316/20	19000	20068/79	
16371	19018/41	20112/5	
16417	19046	20238/9	
16429	19089	20277/8	
16433	19116	20530	
16636	19126	20572/6	
16645	19130/3	20588	
16756/9	19140/1	20652/66	
16798	19150/1	20666/81	
16800	19211/2	20700/4	
16875/6	19224	20714/8	
16920	19241/3	20755/7	
17049/50	19294/5	20776	
17074	19308	20840	
17088	19327	20866	
17090	19360/3	20921/7	
17289/95	19369/70	21021	

SCHEDULE III

PARTICIPATION CERTIFICATES IN THE IMPERIAL RUSSIAN GOVERNMENT
750,000,000 6% THREE-YEAR CREDIT LOAN JUNE 15, 1919

44 Certificates for \$25,000 each

- D 23 to D 40, inclusive
- D 1178 to D 1197, inclusive
- D 1202 to D 1207, inclusive

3 Certificates for \$10,000 each

- C 10
- C 16
- C 17

3 Certificates for \$1,000 each

- A 194
- A 195
- A 196