

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

IN THE MATTER OF THE CLAIM OF

VAN BUREN SECURITIES CORPORATION

44 Wall Street

New York, New York

and/or

VOTA BLANK

11 Place Dauphine

Paris, France

Claim No. RUM-30,548

Decision No. RUM-

785

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimants:

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1832 Jefferson Place, N. W.  
Washington 6, D. C.

and

David A. Avram, Esquire  
80 Park Avenue  
New York 16, New York

PROPOSED DECISION

This is a claim against the Government of Rumania under Sections 303(1) and 303(2) of the International Claims Settlement Act of 1949, as amended, by VAN BUREN SECURITIES CORPORATION and/or VOTA BLANK, based upon war damage to and nationalization of the Rumanian company Fabrica de Hartie si Mucava "Piatra Neamt" hereinafter called "Piatra Neamt".

The pertinent portions of Sections 303(1) and (2) provide, inter alia, that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims of nationals of the United States against the Government of Rumania arising out of the failure to (1) restore or pay compensation for the property of nationals of the United States as required by articles 24 and 25 of the Treaty of Peace with Rumania and (2) pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to August 9, 1955, of property in Rumania of nationals of the United States.

In accordance with well established principles of international

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law, in order for a claim to be compensable, the property upon which the claim is based must have been owned by a national of the United States at the time of loss and the claim which arose from such loss must have been owned by a United States national continuously thereafter.

The Commission has consistently held that the reference in Section 303(1) to Article 24 of the Treaty effects a modification of this well settled rule of international law which requires ownership of a claim by a national of the espousing nation continuously from its inception as a condition for compensation thereof. Thus, a claim arising under Article 24 or 25 of the Treaty may be found compensable under Section 303(1) if the property on which it is founded, or the claim arising from such ownership, was owned by a national of the United States on September 12, 1944, the date of the Armistice with Rumania.

Accordingly, in order to be compensable under Section 303(1) of the Act it must be shown that the claim was owned by a national of the United States on September 12, 1944 and continuously thereafter, and under 303(2) of the Act, it is a condition for compensation that there be a showing that the claim was owned by a national of the United States on June 11, 1948, the date the company was nationalized, and continuously thereafter.

Moreover, it is well settled that the national character of a claim must be tested by the nationality of the individual holding a beneficial interest therein rather than by the nationality of the nominal or record holder of the claim. <sup>1/</sup>

The instant claim is based upon a 135,000 share holding of stock of "Piatra Neamt", which represents approximately a 75% interest in this corporation. It is asserted that claimant, VOTA BLANK, a national of the United States from the date of her birth on April 8, 1892, purchased these shares in 1926 or 1927, and that they were held "nominally" in the name of one Maurice de Sainte Suzanne, a French national, for her benefit. These

<sup>1/</sup> Claim of American Security and Trust Company, Claim No. HUNG-20,540, Decision No. HUNG-51 (1957).



assertions are repeated in an affidavit, dated September 24, 1958, by claimant's husband, Mr. Aristide Blank, a non-national of the United States, in which he states that Mrs. Blank purchased these shares in 1926 or 1927 from the Forest Company and P. & C. Goetz. Claimant has also submitted the affidavit of the aforementioned Mr. Maurice de Sainte Suzanne, dated September 18, 1956, in which he states that for years he held nominal title to these shares for the benefit of Mrs. Blank, and a certification by the same individual appended to the said affidavit of Mr. Aristide Blank, in which he attests to the truth and accuracy of that affidavit.

No contemporaneous evidence in the form of financial records, receipts, purchase agreements, or the like, have been submitted, however, to show that Mrs. Blank purchased these securities as alleged. Moreover, she has submitted no contemporaneous evidence such as agreements, letters, or other pertinent documents, to establish that the French national, Mr. Maurice de Sainte Suzanne, was holding these shares nominally for her benefit.

Additionally, no support for Mrs. Blank's assertions in these respects is found in the copy of Form TFR-500 submitted on her behalf. This form was filed by Mrs. Blank in 1943 with the United States Treasury Department pursuant to regulations requiring reports from certain American citizens owning property abroad. An examination of that form indicates that Mrs. Blank stated therein that she "bought" 134,250 "shares on December 27, 1939 from Jacob Wasserman, 19 Throgmorton, London, E. C. 2, through the Westminster Bank, London". The typewritten word "bought" has been deleted and the word "received" has been substituted. In addition, there appears a handwritten note stating: "I received the shares ten years ago from my husband Mr. Aristide Blank".

Mrs. Blank apparently relies principally upon affidavits of recent date to establish that she owned the shares from 1926 or 1927 until the corporation was nationalized in 1948.



Counsel for Mrs. Blank has stated that she made a number of inadvertent errors in executing the Form TFR-500. They state that the word "bought" was intended to mean "received"; that the stated date of purchase, "December 27, 1939", was in error; and that it was also an error to report that Mrs. Blank had purchased these shares from Jacob Wasserman.

Mrs. Blank has submitted evidence tending to show that in 1941 she gave an option to Van Buren Securities Corporation of New York to transfer these shares to the said corporation in exchange for 100% of the outstanding capital stock of this New York corporation; that pursuant to her instructions the shares of stock of "Piatra Neamt" were transferred to the New York corporation; and that this option was exercised in 1944 whereupon all of the capital stock of the New York corporation was transferred to VOTA BLANK.

The Commission does not doubt that VAN BUREN SECURITIES CORPORATION was a nominal holder and at no time had any beneficial interest in the securities, as asserted by the claimants. The question to be determined is whether Mrs. Blank was the owner of the beneficial interest in "Piatra Neamt" on the date of the armistice with Rumania or at the time of nationalization of the corporation.

In view of the inconsistencies in the record and the failure to submit either contemporaneous or more convincing evidence to show that Mrs. Blank actually owned the shares in question, directly or beneficially, the Commission is constrained to hold and hereby finds that it has not been established that either or both of the claimants owned any interest in these shares either at the time Mrs. Blank offered the said option to the New York corporation or at the time the option was exercised. Consequently, it has not been shown that Mrs. Blank could have effectively offered a valid option, as asserted, or, that upon exercise of such option, she acquired any greater rights with respect to the shares in question than she had just prior thereto.

Section 531.6(d) of the Commission's Regulations (43 C.F.R. Supple-

ment 290) provides that --

The claimant shall be the moving party,  
and shall have the burden of proof on  
all issues involved in the determination  
of his claim.

The Commission finds that it has not been established that claimant,  
VOTA BLANK, or any other national of the United States, was the beneficial  
owner of the shares in question either on September 12, 1944, the date of  
the armistice with Rumania, or on June 11, 1948, the date the company was  
nationalized.

For the foregoing reasons, this claim is denied. The Commission  
deems it unnecessary to make determinations with respect to other elements  
of the claim.

Dated at Washington, D. C.

FOR THE COMMISSION:

MAR 30 1959

William Barrett  
William Barrett, Acting Director  
Balkan Claims Division

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FINAL DECISION

The Commission issued its Proposed Decision on this claim on March 30, 1959, a copy of which was duly served upon the claimants.

Full consideration having been given to the objections of the claimants and to the arguments presented at the hearing held on May 20, 1959, the Commission now finds that the VAN BUREN SECURITIES CORPORATION, a national of the United States within the meaning of Section 301(2)(B) of the Act, owned a 75% interest in the Rumanian company Fabrica de Hartie si Mucava "Piatra Neamt"; that the claimant VOTA BLANK, a national of the United States from the date of her birth on April 8, 1892, has been the beneficial owner of the said 75% interest in the company since prior to September 12, 1944; and that the company "Piatra Neamt" was damaged as a result of World War II. The Commission further finds that the loss actually sustained amounted to Seventy-five Thousand Dollars (\$75,000.00) and concludes that the VAN BUREN SECURITIES CORPORATION is entitled to an award under Section 303(1) of the Act in the amount of Fifty Thousand Dollars (\$50,000.00) since awards under this section are limited to two-thirds of the loss actually sustained.

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The Commission also finds that the company "Piatra Neamt" was nationalized without compensation by the Government of Rumania pursuant to the provisions of Law No. 119 of June 11, 1948 on Nationalization of Industrial Enterprises; that the value of the 75% interest in the company was Six Hundred Thousand Dollars (\$600,000.00); and concludes that the claimant, VAN BUREN SECURITIES CORPORATION, is also entitled to an award under Section 303(2) of the Act.

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

ORDERED that the Proposed Decision be amended in accordance with the foregoing and that an award be made as follows:

A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, this claim is allowed and an award is hereby made to VAN BUREN SECURITIES CORPORATION in the amount of Six Hundred Fifty Thousand Dollars (\$650,000.00) plus interest upon that portion of the award granted pursuant to Section 303(2) of the Act at the rate of 6% per annum from June 11, 1948 to August 9, 1955, the effective date of the Act, in the amount of Two Hundred Fifty-seven Thousand Seven Hundred Sixty Dollars (\$257,760.00).

Payment of any part of this award 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 Rumania for the unpaid balance of the claim, if any.

Accordingly, it is

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

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

Dated at Washington, D. C.

JUN 15 1959

*Whitney Sullivan*  
*Paul Pace*  
*R. L. Kunzig*  
COMMISSIONERS  
*mjs*  
*W D*  
*mgs*  
*etm*