REPRODUCED AT THE NATIONAL ARCHIVES

RG 60
Entry 114 AC.
File 54-017-51
Box 11073

111084

TREASURY DEPARTMENT

WASHINGTON

OCT 19 1931

The Honorable,

The Attorney General.

Sir:

Receipt is acknowledged of your letter of September 4, 1931, File R. St. L.-CMH, 54-017-51, further in regard to the request of the United States Attorney at New York for permission to discontinue the civil forfeiture action instituted against twenty strings of seed pearls and other jewelry seized from one Sender Isaak Horowitz, who arrived at the port of New York as a passenger on the SS ILE DE FRANCE on August 14, 1928.

You state that a copy of the Department's letter of June 26, 1931, together with its inclosure, was forwarded to the United States Attorney who, after reviewing it, reiterated his former recommendation that authority be given to dismiss the forfeiture proceedings.

It would appear that the United States Attorney's request was based on the fact that the testimony in the criminal case apparently indicated that the defendant had delivered the jewelry to the Customs inspector before the examination of his baggage was begun.

In reviewing the minutes of the criminal case, I fail to find in the testimony of the Customs Inspector Mahon that Horowitz had delivered the jewelry to him before the baggage examination had begun. It would seem that the confusion arose from the fact that the jewelry was surrendered by Horowitz just prior to the time he was about to be subjected to a personal search. This was after some of his baggage had already been examined, as indicated in the report of Customs Inspector Heffernan dated May 19, 1931, a copy of which was submitted to you on June 26, 1931.

RECORD

In the case of United States vs. one Pearl Necklace, 111 Fed. Rep. 164, the Court held that "If the claimant omitted

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ENCLOSURES ATTACHED (0)

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DEPARTMENT OF JUSTICE
OCT 20 1931 A.M.
CIVIL DIVISION

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to mention the jewelry to the Customs officer who received her entry made before the examination of her baggage, the articles became liable to forfeiture if they were in fact dutiable."

The Court stated in United States vs. 218½ Carats Loose Emeralds, 153 Fed. Rep. 643; affirmed in 154 Fed. Rep. 839, that "When the proper officer of Customs examined his baggage and put to him the questions whether he had any personal property which he had not declared, or any precious stones upon his person or in his pockets, he was obliged to state the truth, and that when that examination was finished and he still had these emeralds in his pockets, without having admitted it, the act of smuggling was complete".

The opinion of the Attorney General (23 Att. Gen. 63), holding that the acquittal of the crime charged under Section 3082 of the Revised Statutes, predecessor of Section 593 of the Tariff Act of 1922, is no bar to the proceedings in rem authorized under Section 2802 of the Revised Statutes, predecessor of Section 497 of the Tariff Act, was cited with approval in United States vs. Chesbrough, 176 Fed. Rep. 778. A memorandum prepared in the office of the General Counsel, Bureau of Customs, in the matter, is inclosed for your information.

If, upon a review of the record the United States Attorney is still of the opinion that the Government would not prevail in the libel for condemnation of the seized jewelry, the Department will abide by his decision in the matter. In the event that the libel is dismissed, the jewelry should be released to the claimant only upon the payment of the duties accruing thereon plus all expenses incurred in connection with its seizure.

Copy of the stenographer's minutes taken at the time of the trial of Horowitz together with the copies of the libel and amended answer are returned, they having been inadvertently omitted in the Department's letter to you of June 26, 1931.

By direction of the Secretary:

Respectfully,

J. Lowman

Assistant Secretary.

Inclosure No. 1309.

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...D STATES ATTORNEY
AND REFER TO
...NITIALS AND NUMBER

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Department of Justice

United States Attorney's Office
New York

MC

CRIMINAL DIVISION
RECEIVED

December 11, 1934.

DEC 20 1934

The Attorney General,
Washington, D. C.

Re: United States vs. 20 Strings
of Seed Pearls
Your File: JBK:WGG:54-017-51

54-017-51
DEPARTMENT OF JUSTICE
DEC 12 1934 A.M.
M KEENAN-GARDINER, Jr.

RECORD

S i r : -

I refer to my predecessor's letter to you dated May 11, 1931 and letters from your office in this matter dated July 7, 1931, October 22, 1931 and November 10 and November 18, 1931, wherein was discussed the question as to whether or not the above entitled proceeding should be discontinued for the reason that the Government is apparently without any evidence to the effect that the merchandise in question was not disclosed by Sender Isaak Horowitz prior to the examination of his baggage.

I recently communicated with the Collector of Customs at the Port of New York in connection with this situation and I have received a letter dated November 26, 1934, together with its enclosure, copy of which I am transmitting with this letter.

In view of the apparent lack of proof to establish that the examination of the baggage of the aforesaid passenger was begun before the disclosures were made, I feel that the above entitled proceeding should be discontinued, and accordingly ask for your approval of this procedure.

Respectfully,

Martin Conboy

MARTIN CONBOY,
United States Attorney.

Enclosure.

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LES:EL

STATES DISTRICT COURT

RN DISTRICT OF NEW YORK

- X

UNITED STATES OF AMERICA,

Libellant,

-against-

20 strings seed pearls,
4 strings seed pearls,
7 strings seed pearls,
20 strings seed pearls,
1 watch case,
1 watch movement 17 J.
1 bracelet,
1 brooch,
4 rings,
1 pair studs,
1 lavalliere,
1 lavalliere 4 pearls.

- X

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK:-

The claimant, SENDER ISAK HOROWITZ, by his counsel, DAVID P. SIEGEL, for his amended answer to the libel herein, respectfully shows to this Court and alleges:-

FIRST:- The claimant herein denies each and every allegation contained and set forth in paragraph marked and designated "FIRST" in plaintiff's libel, except that he admits that on or about the 15th day of August, 1928, there was seized and taken from his possession within the Southern District of New York, the following described merchandise:- 20 strings seed pearls, 4 strings seed pearls, 7 strings seed pearls, 20 strings seed pearls, 1 watch case, 1 watch movement 17 J, 1 bracelet, 1 brooch, 4 rings, 1 pair of studs, 1 lavalliere, and 1 lavalliere, 4 pearls; which said merchandise was imported and brought to the United States by the

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said claimant, a passenger on the steamship "Ile de France" which arrived at the Port of New York from a foreign country, on or about August 14th, 1928, and which said merchandise, upon information and belief, the Collector of Customs now holds within the Southern District of New York as forfeited to the United States.

SECOND:- Claimant denies each and every allegation contained and set forth in paragraphs marked and designated "SECOND" and "THIRD" of plaintiff's libel.

THIRD:- Claimant denies each and every allegation contained and set forth in paragraphs marked and designated "FOURTH" and "FIFTH" of plaintiff's libel.

AS AND FOR A SEPARATE AND DISTINCT DEFENSE, AND BY WAY OF A COMPLETE BAR TO THE PLAINTIFF'S LIBEL, THE CLAIMANT ALLEGES AS FOLLOWS:-

FOURTH:- That at the time of the seizure alleged in the plaintiff's libel, the claimant was entitled to and in lawful possession of the aforesaid merchandise, in that he was the consignee of the aforesaid merchandise of one Jacob Brandstatter of the City of Antwerp, except for 1 lavalliere 4 pearls, which said latter article was and still is the sole property of the claimant.

FIFTH:- That the claimant herein is authorized and empowered to make answer to the plaintiff's libel herein, and to reclaim the aforesaid property from the possession of the United States of America, and is entitled to immediate possession thereof.

SIXTH:- And, further answering, the said claimant alleges that the fraudulent acts, omissions and intents set out in said libel, and the importation and bringing into the

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United States of said articles of jewelry alleged therein, are the same acts, omissions and intents and the same importation and bringing of the said articles of jewelry as are recited and charged in a superseding indictment presented and filed against the claimant herein at February Term of this Court, 1929, and that the fraudulent importation and bringing into the United States of the said articles of jewelry, and the clandestine and secret introduction of the same and intents to defraud the Revenues of the United States alleged in said libel might have been established if said allegations be true, under Sections 493, 496, and 497 of the United States Code Annotated, upon which the counts in said indictment were based; that by competent evidence which would be necessary to establish the fraudulent, clandestine and secret importation and bringing in of said articles of jewelry and intents to defraud the Revenues, and to establish the liability ofsuch articles to the payment of duties, would also be competent and would tend to establish the allegations of this libel; that the charges of fraud and causes for forfeiture alleged by the plaintiff herein relate to the same subject matter and are based upon the same acts, omissions and intents of the various allegations in said indictment contained.

That the claimant avers and says that the United States ought not to maintain its action herein for forfeitur of said property under the provisions of the Sections 493, 496 and 497 of the United States Code Annotated, for at the February Term, 1929, in the Southern District of New York, an indictment, the same above referred to, was found against him, based upon the sections 493, 496 and 497, or of some or or more of them, alleging the fraudulent, clandestine and secret importation and bringing into the United States of t

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said articles of jewelry, with intent to defraud the Revenues, that the counts in said indictment contained the same charges in substance and effect and are the same allegations of offenses and fraud, and are founded on the same sections of the Statutes of the United States, as the matters and things alleged herein in plaintiff's libel, and the claimant says that all and singular said matters at said Term and in this Court were tried and inquired into and duly heard, and on the hearing thereof, two of the counts contained in said superseding indictment were dismissed at the end of the Government's case, on the ground that the evidence did not sustain the said counts, and insofar as the second count was concerned, the jury found this defendant not guilty, and the Court rendered a judgment acquitting this defendant of the fraudulent acts, omissions and intents therein alleged, and all of which are the same fraudulent acts, omissions and intents now set out in plaintiff's libel herein answered by the claimant; that all and singular the premises are true.

That it is further averred that upon claimant's arrival in this country and while within the custom lines thereof and prior to the inspection of his baggage by the custom officials, the said claimant made an oral declaration wherein and whereby he apprised said custom officials of the fact that he had in his possession the jewelry referred to in the within libel which were subject to dut y and that he was ready, able and willing to pay such duty upon ascertaining the amount of the duty thereon. That said claimant was and still is ready, able and willing to pay the duty charges on the jewelry referred to in the libel.

WHEREFORE, claimant demands judgment against the

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plaintiff, dismissing the plaintiff's libel, and for the return of the aforesaid merchandise, and for such other and further relief as to this Court may seem just and proper in the premises, together with costs and disbursements.

DAVID P. SIEGEL,
of Counsel for Claimant,
Office and P. O. Address,
No. 42 Broadway,
Borough of Manhattan,
City of New York.

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(COPY)

TREASURY DEPARTMENT
Office of the Surveyor
UNITED STATES CUSTOMS SERVICE

NEW YORK, N. Y.

Baggage W. H. Bureau,
201 Varick St., Room 311.
May 19, 1931.

MEMO FOR MR. BREWER in re-U. S. vs Sender Isaac Horowitz:

Horowitz was under observation by Treasury officials as a carrier of jewelry; when his name appeared on the passenger list of ss "ILE DE FRANCE" Aug. 14, 1928, the orders given by me to the examining Inspectors were to the effect that as soon as Horowitz was located, I was to be notified, and to pay strict attention to the questions put by me to the passenger. Inspector T. J. Mahon chanced to locate Horowitz and notified me. I was standing at Mahon's elbow as he asked Horowitz the usual routine questions which established Horowitz as a returning resident; that he had been abroad but a short time; that he had obtained nothing abroad through purchase or otherwise and that everything in his baggage and on his person was taken from the United States. He was sworn to his declaration, and his hand-luggage then examined by Mahon; I thereupon questioned the passenger Horowitz more specifically as to any jewelry in his possession, or if any had been offered to him to bring to the United States; he insisted repeatedly that he had no knowledge of any jewelry whatsoever; that none had been given to him nor any offer made to him to carry any jewelry still pressing him along this line, he heatedly demanded to know why his word as a man of God was not taken; his answers were apparently so sincere that he beguiled me into believing that he was telling the truth; I stopped my interrogations and ordered Mahon to continue the examination of other passengers; a perusal of the information lodged against, a copy of which I had with me, led me to make further inquiries of Horowitz to cover in my report all the data given in the information. The orders of the Department called for a personal search, and retention of any papers found in his possession; summoning Inspector Mahon I renewed my questioning of Horowitz, and received the same answers, that he had no jewelry in his baggage nor on his person. I ordered Mahon to "frisk" him instead of a personal search, as the Inspector started to lay his hands on Horowitz's body, Horowitz stepped back and indignantly declared that he did not wish to be disgraced before these people who looked up to him and he pointed to a group of Jewish passengers among whom he was standing when he was found. I thereupon ordered Mahon to take him to the men's waiting room and I accompanied them, telling Horowitz that

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we were going to search him; he still wanted to know why I did not believe him. When we reached the men's room, he stepped around a table, keeping the table between himself, Mahon and myself, protesting against the search; eventually telling him we had no more time to waste, and as Mahon attempted to start a search; he stepped back and said he wanted to see the chief Inspector. I told him that I was the chief Inspector. He then admitted that he had some jewelry, and reaching into his upper vest pocket, pulled out a number of strings of seed pearls and laid them on the table; I asked him if that was all and he simply shrugged his shoulders; I asked him why he failed to declare them and why he repeatedly denied any knowledge of jewelry; another shrug of the shoulders and wave of the hands was his response; in the meantime Inspector Mahon had stepped around the table and running his hands over Horowitz's person, he remarked to me, "this fellow is loaded" and started to place his hand in Horowitz's pocket; Horowitz demurred at this; claiming he was "orthodox," by this he meant that he objected to the "Goyim's" touch. I told Mahon to desist, whereupon Horowitz, slowly and reluctantly, with much prodding, eventually emptied his pockets of the jewelry now in the Seizure Room; a personal search was then made despite his protest, but nothing further was found of this nature, but all papers found on his person were retained in Customs custody and his baggage sent to Public Store for thorough examination. As we left the men's room, Horowitz asked what we were going to do with him, I told him we were going to take him to the Custom House, where he could explain to the Law Division his reasons for failing to declare the jewelry; he then begged me not to let his daughter Rosa, who was a passenger with him, know that he was in trouble, as she did not know he had the jewelry; later on in the afternoon at the hearing in the Law Division, in the presence of Messrs. Brewer, Conrow, McAniff, Mahon and Heffernan, he insisted on telling his side of the story despite warnings by Mr. Brewer that he was under arrest, entitled to counsel, and that anything he might say would be used against him; he waived his rights and told the following: That through his wife in Vienna he met one Jacob Brandstatter, a jeweler, who on account of poor business, was anxious to transfer his stock in trade, valued at around $100,000.00, to the United States, that due to his calling, he was a perfect foil to do this successfully, that Brandstatter, afraid to venture all his stock at one attempt, gave him a portion of it, valued at around $10,000.00, that upon arrival here Horowitz was to place same in a safe deposit vault, return to Vienna, get the remainder of the jewelry and bring it to the United States along with his wife and other children. Asked specifically by Brewer as to what arrangements were made for Customs duties, his answer was "none", that when this jewelry was sold he was to obtain 1/3 of the profits; asked if he had a list or invoice of the jewelry found on him, or any agreement between him and Brandstatter, he replied that there was none; yet at the trial a written agreement between him and Brandstatter was produced by his counsel, where this came from I do not know, as it was not among the papers taken from him upon his arrival. On the witness stand the daughter Rosa testified that she saw the jewelry in a package, and which her father rolled up in his trousers and slept on at night to prevent robbery; and yet the father

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was perturbed when jewelry was found on him lest his daughter know he had it; the daughter further testified that she saw her father give this package to the Inspector on the pier, yet the jewelry was found not in a package but distributed among the various pockets in his clothing.

What Inspector Mahon testified to on the stand we do not know, as all Government witnesses were excluded from the trial room; granting however, that rattled by the cross examination of Siegel, attorney for the defense, Mahon may have made the statements attributed to him; however, this deficiency is offset by the testimony of Inspector Heffernan, who testified to the main and essential facts, and whose testimony will show that there was no declaration of this jewelry made by Horowitz either in writing or orally to either Inspectors Mahon or Heffernan, and that it was a good half-hour after their official contact with the passenger, before the jewelry was obtained, and that for the claimant to state in his amended answer to the libel that "while within the Custom lines and prior to the inspection of his baggage by the Customs officials, the said claimant made an oral declaration, wherein and whereby he apprised said Customs officials of the fact that he had in his possession the jewelry referred to in the within libel which was subject to duty and that he was ready, able and willing to pay such duty upon ascertaining the amount of the duty thereon" is false, misleading and not consistent with the facts; he made no declaration, oral or otherwise, and at his examination at the Law Division at the Custom House, he claimed no arrangements were made to pay nor did he have the money to pay the duty; and that if the Custom House found that he landed the jewelry without the payment of duty and wanted the duty they would have to see Mr. Brandstatter about it.

(Signed)

Heffernan.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA,

Libellant

-against-

20 strings seed pearls,
4 strings seed pearls,
7 strings seed pearls,
20 strings seed pearls,
1 watch case,
1 watch movement 17 J.
1 bracelet,
1 brooch,
4 rings,
1 pair studs,
1 lavalliere,
1 lavalliere 4 pearls.

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TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF NEW YORK

On the 4th day of January, 1929, comes CHARLES H. TUTTLE, United States Attorney for the Southern District of New York, in a case of seizure and forfeiture of property under the Revenue Laws of the United States, and informs the Court, upon information and belief, as follows:-

FIRST: That on or about August 15th, 1928, the Collector of Customs of the United States at the Port and Collection District of New York, in the Southern District of New York, and within the jurisdiction of this Court, did seize on land from one Sender Isaak Horowitz, certain merchandise consisting of 20 strings seed pearls, 4 strings seed pearls, 7 strings seed pearls, 20 strings seed pearls, 1 watch case, 1 watch movement 17J., 1 bracelet, 1 brooch, 4 rings, 1 pair studs, 1 lavalliere, 1 lavalliere 4 pearls, of the domestic value of $14,955.00, which said merchandise was imported and brought into the United States by said

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Sender Isaak Horowitz, who was a passenger ex S. S. Ile De France, which arrived at the Port of New York, from a foreign country in the Southern District of New York on August 14th, 1928, and which said merchandise, the Collector of Customs now holds within the Southern District of New York as forfeited to the United States for the causes propounded as follows:-

FOR A FIRST CAUSE OF FORFEITURE
(Section 497 Tariff Act 1922)

SECOND: That on or about August 15th, 1928, said merchandise heretofore described, which was subject to duty by Law on the importation thereof, was found in the baggage of said Sender Isaak Horowitz, who arrived at the Port of New York in the Southern District of New York on August 14th, 1928, as a passenger ex S.S. Ile De France, and which said merchandise was not included in the declaration and entry made by said Sender Isaak Horowitz on his arrival ex S.S. Ile De France as aforesaid, and which said merchandise was not mentioned orally or in writing to the Customs officer by said Sender Isaak Horowitz before the examination of his baggage was begun.

THIRD: That thereby and under the provisions of Section 497 of the Tariff Act of 1922, said merchandise became subject to forfeiture and the United States of America became and are entitled to a decree for the forfeiture thereof.

FOR A SECOND CAUSE OF FORFEITURE
(Section 593-B Tariff Act of 1922)

FOURTH: That on August 15th, 1928, at the Southern District of New York, and within the jurisdiction of this Court, said Sender Isaak Horowitz, the owner of said

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merchandise heretofore described, was guilty of wilful acts and omissions by means thereof the United States might be deprived of the lawful duties accruing upon said merchandise, that is to say, said Sender Isaak Horowitz, having arrived on August 14th, 1928, at the Port of New York, in the Southern District of New York and within the jurisdiction of this Court, from a foreign country, as a passenger ex S. S. Ile De France, and having in his luggage said imported merchandise which was then and there, upon said importation, subject to duty, did make his baggage declaration as a returning resident of the Unted States, and did fail to declare said merchandise in said declaration or to mention it orally or in writing to the Customs office before whom said entry was made, or to any other Customs officer at the time of making such baggage declaration, and before the examination of said baggage was begun.

FIFTH: That thereby and under the provisions of Section 593-B of the Tariff Act of 1922, said merchandise became subject to forfeiture and the United States of America became and are entitled to a decree for the forfeiture thereof.

WHEREFORE, libellant prays that due process issue in that behalf as well of attachment, to bring the said property within the custody of the Court as of monition to all parties in interest to appear on the return day of said process, and duly intervene herein by claim and plea in the premises, and due proceedings being had thereon, that for the cause aforesaid, the said goods, wares and merchandise aforesaid be condemned by decree of forfeiture, and the proceeds of the sale thereof be distributed according to

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Law, or such other distribution be had thereof as the Court shall direct.

CHARLE H. TUTTLE,
U. S. Attorney for the Southern
District of New York,
Proctor for Libellant,
Office and P. O. Address,
U. S. Courts and Post Office
Building,
Borough of Manhattan,
City of New York.

347459

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RG 60
Entry 114 AC
File 54-8 Sub12
Box 11075
NACO 6/28

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA, Libelant, vs ONE BAR OF GOLD AND SILVER BULLION, Respondent.	NO. L-720-TUCSON DECREE

This matter came on for hearing before this Court on the 15th day of February, 1937, at 10 o'clock A. M., the Government being represented by the United States Attorney, and default having been heretofore entered. And it appearing to the Court that due notice had been given as directed by the monition issued herein, and the Government having offered evidence and the Court having duly considered the same, finds the matters alleged in the information to be true and that the Government is entitled to a decree of forfeiture as prayed in the information.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that the property heretofore seized by the Collector of Customs for the port of Nogales, Arizona, and described in the information, to-wit, one bar of gold and silver bullion weighing approximately nine pounds and eleven ounces, containing approximately eighteen fine ounces of gold and one hundred fine ounces of silver and of the value of about Six Hundred Eighty ($680.00) Dollars, be and the same is hereby forfeited to the United States of America for the causes set forth in said information, and the said property be and is hereby adjudged to be the property of the United States of America.

And it appearing to the Court that the said Collector

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U. S. GOVERNMENT PRINTING OFFICE: 1932

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Box 11075

of Customs has surrendered said bar of gold and silver bullion to the United States Marshal for the District of Arizona pursuant to attachment heretofore issued out of this Court,

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the said United States Marshal pay over the said bar of gold and silver bullion to the nearest United States Mint to be credited to the account of the Collector of Customs for the District of Arizona, at Nogales, Arizona, after deducting the legal costs and charges incurred in this cause.

Done in open Court this 16th day of February, A. D. 1937.

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U. S. GOVERNMENT PRINTING OFFICE: 1933

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REPRODUCED AT THE NATIONAL ARCHIVES

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Box 11075
6/28

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA, Libelant, vs ONE BAR OF GOLD AND SILVER BULLION, Respondent.	NO. L-720-TUCSON INFORMATION Viol: 31 USC 443 Forfeiture of one bar gold and silver bullion. Federal question, USA a party.

BE IT REMEMBERED, that F. E. Flynn, United States Attorney, for the District of Arizona, who for the said United States in this behalf prosecutes, comes into the District Court of the United States for the District of Arizona, on this, the 22nd day of December, 1938, and for the said United States gives the Court here to understand and be informed that on 12th day of March, 1936, on land, at the port of Nogales, in the District of Arizona, aforesaid, the Collector of Customs for the said port of Nogales, did seize certain property, that is to say, certain bullion of the following description, namely, one bar of gold and silver bullion weighing approximately nine pounds and eleven ounces, containing approximately eighteen fine ounces of gold and one hundred fine ounces of silver and of the value of about Six Hundred Eighty ($680.00) Dollars.

That the said Collector of Customs, aforesaid, now holds the said property in his custody as forfeited to the United States of America, for the causes following, that is to say,

That the said property, to-wit, the said one bar of gold and silver bullion, was imported into the United States of America, withheld, and held in the custody of one

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U. S. GOVERNMENT PRINTING OFFICE: 1937

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E. R. Bissett and one Emil Brudin, in violation of Title 31, Sections 441, 442, United States Code.

By reason of which premises, and by the force of the statute aforesaid, the said property became and is forfeited to the said United States of America.

WHEREFORE, the said United States Attorney, who prosecutes as aforesaid, for the said United States of America, prays that the said property be forfeited to the said United States, that due process of law may be awarded in this behalf to enforce such forfeiture of the said property so seized as aforesaid, and to give notice to all parties concerned to appear on the return day of such process and to show cause, if any they have, why such forfeiture should not be adjudged and that the said Collector of Customs, or whoever has custody of said gold and silver bullion, deliver it to the United States Mint for the account of said Collector of Customs.

F. E. FLYNN,
United States Attorney

John P. Dougherty
Assistant U. S. Attorney

7—1604
U. S. GOVERNMENT PRINTING OFFICE: 1955

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Box 11075

GENERAL COUNSEL
TREASURY DEPARTMENT
WASHINGTON

CRIMINAL DIVISION
NOV 4 1936
NOV 6 - 1936
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My dear Mr. Attorney General:

There are enclosed copies of papers relating to certain activities of E. R. Bissett(e), Emil(e) Brudin (who is referred to as Ernie Brudin in some of the papers), and others, relative to a bar supposed to contain 18 fine ounces of gold and 100 fine ounces of silver.

54-8-12

It appears that such bar was smuggled into the United States, smuggled out of the United States, and seized by customs officials upon the attempt to reimport it into the United States.

NOV 17 1936

Since Bissett and Brudin had failed to declare such gold upon the importation thereof and had imported such gold into, held and transported it within, and exported it from the United States without an appropriate Federal gold license, such persons signed a notice of abandonment and assent to forfeiture of such bar, and the Collector of Customs, District of Arizona, forwarded such bar to the United States Mint, San Francisco, California, for his official account, in accordance with established procedure. However, such gold bar has been held intact at the United States Mint, San Francisco, California, and has not been taken into our regular bullion stock, as information contained in the attached papers indicates that persons other than Bissett and Brudin may have some claim to, or interest in, such gold. The following is quoted from the sworn statement in writing made by Bissett at Nogales, Arizona, on March 12, 1936:

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Box 11073

"* * * For the last year I have been mining at Sombretillo Mine in Mexico, which is about 30 miles below Sasabe, Arizona. I have a 17½% interest in the mine. The balance is owned by Emil Brudin, his sons Oscar and Alex., and Mr. Clarence Hodson of New York."

In view of the circumstances it would appear to be desirable to institute libel proceedings under section 593(b) of the Tariff Act of 1930, 46 Stat. 751 (U.S.C., title 19, sec. 1593(b)) and section 4 of the Gold Reserve Act of 1934, 48 Stat. 340 (U.S.C., title 31, sec. 443), to forfeit such bar rather than to rely on the notice of abandonment and assent to forfeiture signed only by Bissett and Brudin, and we shall continue to hold such bar intact pending receipt of advice from you.

Very truly yours,

Acting General Counsel.

The Honorable

The Attorney General of the United States.

Enclosures

347465

DEPARTMENT OF STATE

FOREIGN FUNDS CONTROL DIVISION

December 18, 1942

Board of Economic Warfare
Mr. Sigmund Timberg:

I attach for your information a memorandum which I sent Mr. Hoffmann of the Treasury Department giving the text of the declaration which is soon to be issued by the Allied governments on forced transfers of property in enemy occupied areas, together with a paraphrase of telegram no. 7121 of December 15 from London, which gives a couple of changes in the text as adopted at the general meeting on November 27.

J. J. Reinstein

FF:JJR:vh

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File Foreign Property Transfers
Box 67

347466

DECLASSIFIED
Authority NND 812045
By BKH NARA Date 6/27

DEC 19 1942

December 16, 1942

RESTRICTED

Treasury Department
Mr. E. L. Hoffmann:

The Department has received from the Embassy at London the text of the proposed inter-Allied declaration regarding transfers of property in territories dominated by the enemy as drafted in final form at a meeting on November 27 at the British Foreign Office. A copy of the proposed text is attached. The meeting also gave consideration to the procedure to be used for issuing and giving publicity to the declaration.

1. Text of Declaration.

The Department is informed that the Dutch and Belgian representatives pressed strongly for the insertion of the phrase "de jure or de facto" in the first paragraph and in the second sentence of the second paragraph. The meeting only accepted this condition on the understanding that it would be dropped without further discussion if the Soviet Union opposed it. After the meeting, it was learned informally that if this phrase is retained, the Foreign Office may suggest that it be taken out of the first two paragraphs and that there would be added an additional sentence which would read somewhat as follows: "It is immaterial whether the state of war is de jure or de facto".

Before the meeting was held Mr. Eden was informed by the Chinese, through their Charge d'Affaires, that the Chinese would agree to join the declaration but wished to suggest that after the words "persons resident in such territories" there be added the following clause:

> "...without prejudice, however, to the liability of the Axis powers and their associates to make compensation for the dispossession of the above mentioned property, rights and interests".

Representatives at the meeting warmly welcomed the willingness of China to join the declaration. However, the clause which was suggested by the Chinese met with no support and in fact a number of countries strongly

opposed

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Authority NND 812045
By BLM NARA Date 6/27

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opposed it. The opinion was held by those present that this declaration should not be drawn into controversial associations connected with the concept of reparations which should be treated as a separate matter. The Chinese representative did not press this suggestion.

Both the Chinese and Soviet representatives stated that in any case they were required to refer the final draft text to their respective governments.

At a later date the Embassy will forward the exact designation of each government in the declaration.

2. Establishment of Subcommittee of Experts.

The Embassy reports that in keeping with the purpose of the declaration (see the last paragraph of the Embassy's telegram of July 25, 1945, no. 4155) efforts to introduce into the declaration detailed realistic statements have been successfully resisted. However, it was felt that following the declaration some study should be undertaken regarding the means of giving effect to it subsequently. Accordingly, at the meeting on November 27 it was agreed that a committee of experts should be established. The terms of reference of the subcommittee are set forth in a second attachment to this memorandum.

The Dutch and Belgians, supported somewhat by the Norwegians, wished to enlarge the duties of the subcommittee and require it to make recommendations as to the implementation of the declaration in the various countries. However, the decision was made to restrict the work of the subcommittee to fact finding for the present at least. Consideration of what further steps should be taken was deferred to a subsequent general meeting.

The Director of the British Trading with the Enemy Department, Mr. H. S. Gregory, was nominated as chairman of the subcommittee. Other members to the subcommittee will be chosen in consultation with the governments concerned. A Foreign Office official stated in an informal conversation that it was anticipated that the subcommittee would have to be constituted on a regional basis. He suggested tentatively that the United States, the French National Committee, China and the Soviet Union should each nominate one expert and that the

following

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following groups should each agree on one expert: Poland and Czechoslovakia; Yugoslavia and Greece; the British dominions, and the small western European countries.

3. Procedure for Announcing the Declaration.

We are now waiting for the Soviet and Chinese Governments to approve the final text. It was agreed that Great Britain, as the coordinating power, should inform the governments making the declaration 72 hours before it is made. It is considered likely that the announcement in the House of Commons will be made by Noon as nearly as possible to midday. It was further agreed that one day before the declaration is made, Great Britain, as the coordinating power, and in the name of the participating governments, should notify the other United Nations who are not included in the original declaration and should invite them to consider making their adherence to the declaration's principles. A Foreign Office official said subsequently during an informal conversation that he believed this would be done through British Ambassadors and Ministers in the countries concerned.

4. Guidance to Press and Radio on Interpretation of the Declaration.

Some of the Allied Governments revealed a tendency at an earlier stage to prepare their own interpretations of the proposed declaration for public use after the declaration had been published. These interpretations in some cases were not entirely consistent and the British hold the strong opinion that misunderstanding and confusion would result if each country made its own public interpretation without consulting other participating countries.

Consequently, it was agreed at the meeting that a common interpretative note should be employed for the guidance of the radio and the press. The text of the note is attached hereto. The Embassy reports that the Norwegians desire to eliminate the word "invalidate" in the last sentence of paragraph 3 of the note. In lieu thereof they desire to substitute the phrase "to implement the invalidation". This proposed change is being considered further

5. Recording Particular Points of View of Individual Governments.

During

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During the discussions on this matter, certain governments have made known their intention to record particular viewpoints concerning the declaration which were not accepted at the meetings.

The Australians wished to have a procedure adopted whereby multilateral discussions would be held for the purpose of determining the precise way in which each government would implement the declaration. This move received no support and was strongly opposed. However, the Australian Government desires to place its view on record. It is also understood that the Government of Czechoslovakia desires to record a statement.

The opinion was held that the publication of these special viewpoints would weaken the effect of the declaration. Consequently, it was agreed that these special viewpoints should be recorded in a confidential proces-verbal. These special statements will be made part of the minutes of the November 27 meeting which will then be held to constitute the confidential proces-verbal. As soon as it becomes available the Embassy will send a copy of this to the Department.

J. J. Reinstein

FF:JJR:vh

347470

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Entry 285-B
File Foreign Property Transfers
Box 67

DECLASSIFIED
Authority NND 812045
By BJM NARA Date 6/27

CONFIDENTIAL

MEMORANDUM

June 5, 1943

To: Messrs. Lowenthal
Tirana

From: Sigmund Timberg

Re: Developments Amplifying the United Nations Declaration on Forced Transfers of Property

It seems appropriate at this time to mention certain developments that may give body to the United Nations declaration reserving to the governments of occupied countries the right to invalidate all property transfers under occupation regimes, whether in the form of open robbery or spoliage or ostensibly covered by legal appearance. This declaration was issued on December 15, 1942: -

I. The Inter-Allied Sub-Committee on Acts of Dispossession. This committee, composed of signatories to the Inter-Allied declaration, held its first meeting in the British Foreign Office on January 13, 1943. It agreed that each government represented would submit a statement of its existing national legislation (both pre-and post-occupation) under which transfers and deals of the kind referred to in the Inter-Allied Declaration could be invalidated. The committee also agreed to draw up a list of headings under which the various Nazi acts of dispossession could be classified. I have received from Mr. Schachter of the Foreign Funds Division of the State Department a list of such headings, which is in effect a classification of the types of property involved, together with minutes of the discussion thereon.

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In the preparation of any BEW reports on the extent of the property transfers that has taken place in occupied countries, or on the amount of Axis looting, it might be a good idea to follow the property classifications agreed on by the Inter-Allied Sub-Committee.

The Inter-Allied Sub-Committee has held various meetings since January 13th, in the course of which statements on the scope of existing legislation under which occupation transfers and deals in property could be invalidated were submitted by: -

1. The United Kingdom, Great Britain, and Northern Ireland.

2. The Belgian government-in-exile.

3. The Yugoslav government-in-exile.

4. The Norwegian government-in-exile.

(All of those have likewise been forwarded to me by Mr. Schlichter). The Statement of the Norwegian government-in-exile is, I think, particulary good in posing the problems involved and deserves careful reading.

II. Ten Latin-American Countries have already agreed to lend their aid and sanction to the United Nations declaration, and it was anticipated that two more would agree to it. Publicity was given to the declaration in the Argentine and Portuguese press (see B.E.W. 459258).

III. The National Foreign Trade Council, Inc. has set up a Foreign Property-Holders Protective Committee to determine the principles which should govern compensation for losses to American business interests; to present those principles to the United States and other governments; to gather all information pertinent to the proper prosecution of claims by members of the Council; and to maintain close contact with the proper authorities, so that property rights in territories occupied or reoccupied by the United Nations might be protected. The Executive Committee of this committee is composed of representatives of fifteen large companies with foreign holdings; the committee claims to represent 90%-95% of American industry engaged in foreign commerce prior to the war. It estimates the value of the American property destroyed or looted by the Axis in war zones at about five billion dollars.

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Official government estimates are that, as of the end of 1940, American direct investment in foreign countries amounted to $1,420,000,000; and that, at the end of 1941, American-owned European bonds totalled $470,000,000 and American short-term funds held abroad totalled $88,000,000. Even after allowance has been made for the fact that these estimates are based on book values, it seems clear that the Foreign Trade Council's estimate (which covers only property loss and damage) is an inflated one.

It is obviously legitimate for American interests to seek to protect their properties abroad. The only risk is the possibility that occupation authorities will be charged with discriminating in favor of American interests, if they are not prepared to establish equitable principles for the handling of the property claims of other nationals in those areas.

IV. The Treasury has just issued a special regulation (Special Regulation No. 1; reproduced in the Federal Register for June 4, 1943, pp. 7438-9), requiring all persons subject to the jurisdiction of the United States to make a report with respect to:

(a) All property in a foreign country in which they or any foreign organization allied with them had any type of direct or indirect interest;

(b) Property damaged, destroyed, or seized any time after Jan. 1, 1938, as a result of war, "scorched-earth" policy, confiscatory action, or duress.

The Census which Treasury is conducting on the basis of these reports should prove most useful, and Mr. Dickens is prepared to cooperate with any agency that has a legitimate request for information.

c c: Stone
Fleming
Coe
Wharton
Russell Smith
Lunning
Cleveland
Fath

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Entry 285B
File Foreign Property Treasury
Box 67

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Authority NND 812045
By BLM NARA Date 6/27

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Box One

CABLE ADDRESS "UPHAM" NEW YO

HARRIS, UPHAM & Co
MEMBERS NEW YORK STOCK EXCHANGE
14 WALL STREET
NEW YORK

UPTOWN
INTERNATIONAL BLDG.
ROCKEFELLER CENTER
CHICAGO, ILL.
135 SOUTH LA SALLE STREET
MINNEAPOLIS, MINN.
175 NORTHWESTERN BANK BLDG.

KANSAS CITY, MO.
912 BALTIMORE AVENU
ST. PAUL, MINN.
108 PIONEER BLDG.
LONDON, E. C. 2, ENGLA
34, BISHOPSGATE

ARTHUR C. SCHAEFER
BRANCH MANAGER

TELEPHONE MARQUETTE 034
710 NORTH WATER ST.
MILWAUKEE, WISC.

November 1, 1943

RECEIVED
FEB 16 1949
CRIMINAL DIVISION

Mr. F. Kirk Madderix
Assistant United States District Attorney
Federal Building
Milwaukee, 2, Wisconsin

Dear Mr. Madderix:

In accordance with our conversation, I am enclosing some information on German Marks which might be of some interest to you.

Yours very truly,
HARRIS UPHAM & CO.
Arch Schaefer

IS:DW
Enc.

146-39-0
DEPARTMENT OF JUSTICE
FEB 18 1949
DIVISION OF RECORDS
CRIMINAL-ADMINISTRATIVE
CRIM.-ADM. REGULATION SEC.

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Box One

HARRIS, UPHAM & Co

MAIN OFFICE
FOURTEEN WALL STREET
NEW YORK

UPTOWN OFFICE
INTERNATIONAL BLDG.
ROCKEFELLER CENTER

135 SOUTH LA SALLE STREET
CHICAGO

CABLE ADDRESS: UPHAM NEW YORK
TELEPHONE REctor 2-6300

STOCK EXCHANGE NEW YORK MEMBERS

14 WALL STREET, NEW YORK

October 27, 1943.

Dear Mr. Skaar,

Referring to your request to be informed about the various types of blocked Reichsmarks, that is a tall order; I believe there must have been 30 such categories before those blackguards set out to conquer the world. However, I shall enumerate the most important ones:

Preferential Blocked Marks (Vorzugssperrmarks).
Representing balances arising from the payment of credits or participations granted in Germany by foreigners, provided the credit was not originally granted out of a commercial blocked marks account and was in existence for more than a year, also from the sale of domestic investments (e.g. real estate) provided they had been held for more than one year and were not purchased with commercial marks. Proceeds of sale or repayment of securities acquired before the 15th of April, 1932 (or the 13th of March 1938 in the case of Austrian securities and the 1st of October 1938 in the case of Sudeten securities.
The same category also comprises balances existing prior to the 1st of January 1939 on Credit Mark account (Kreditsperrmark) in the possession of original owners and Securities Marks (Effectensperrmarks) arising from either sale of securities which were in the owners possession before the above-mentioned dates.

Commercial Marks (Handelsperrmark).
consisting chiefly of all blocked balances which were acquired from third parties and Securities Marks resulting from securities acquired after the above-mentioned dates. Also balances resulting from the shipment of German currency from abroad.

Emigrant Marks (Auswanderersperrmark).
Balances of an emigrant with a German bank, which existed at the time of emigration (an emigrant being defined as a person who resided permanently in Germany and emigrated after the 3rd of August 1931), including blocked balances of such an emigrant which may have accumulated since emigration ; When such balances were transferred from the original owner they became Commercial Marks. The transfer of balances in Jewish ownership, however, was not permitted;(such balances could only be offered for sale to the Deutsche Golddiskontbank).

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Box One

Foreign Currency Blocked Marks (Alte Währungsguthaben)
foreign currency balances which were owned by foreigners and which existed before the 16th of July 1931, which did not fall under a Standstill Agreement. (The corresponding dates were 23rd of March 1938 for Austria, the 28th of October 1938 for Sudetenland, and the 1st of March 1935 for the Sarre (Saar).

Balances under any of the four categories described above may have been used for long term investment in Germany, credits, the purchase of real estate, payment of insurance premiums; also for the purchase of German internal bonds, Schillings, Kronen etc. It was usually possible to realize abroad any of these types of blocked mark balance against free exchange, although at a considerable discount.
Furthermore, any such balances could be transferred, under permit, to a Special Account (Sonderkonto), from which one could have drawn personally for travelling expenses in Germany, if of a non-business character, maximum withdrawal Rmk. 2000 per month per person, including the whole family and attendants.

Registered Marks (Registermark)
i.e. blocked marks arising from the repayment of credits originally granted in foreign currencies which the German debtors effected in Reichsmarks pursuant to the provisions of the German Credit Agreement of 1933, and subsequent agreements, For the purpose of controlling the use and the investment of such accounts, they were entered on a Register kept by the Treuhand Gesellschaft m.b.H. of 1933, which was under the control of the Reichsbank (this explains the designation "registered credit balances"). The principal use to which Registered mark balances were put was the financing of foreigners travelling in Germany. When such balances were thus transferred to a third party, they became styled TRAVEL OR TOURIST MARKS (Reisemark).

Naturally, as you have asked for a brief outline of BLOCKED marks, I have not mentioned Free Reichsmarks (Freie Reichsmark-Konten), which was the only German currency without any restrictions. This was therefore the highest valued currency (around 40 cents in U.S. equivalent), while others ranged from 25 cents for Registered- and Tourist Marks to around a couple of cents for the type that was established by sale of internal securities (Effectensperrmarks).

Yours very truly

J Middleton

347476

REPRODUCED AT THE NATIONAL ARCHIVES
Entry 114 BV
File 146-39-0 Sec 3
Box One

433 South Rampart Blvd.
Los Angeles 5, Calif.
February 24, 1948

Mr. Max S. Eisenberg
Attorney, Aiding the Alien Property Custodian
Department of Justice
Washington 25, D. C.

Dear Mr. Eisenberg:

Recently, I saw an item in our local newspapers regarding your report to the Senate Judiciary Sub-Committee on seized German assets and claims made by American Citizens.

The total of persons filing claims, as listed by the papers, was 80,000. I should appreciate your advising me whether this number includes people who recently became American Citizens. (That is, people who arrived in this country just before or after the onset of World War II), and have since become citizens, as in my case.

I filed the necessary claims regarding my property and money in Austria which was seized by the German Reich. This was filed with the Alien Property Custodian at Washington D.C.

I should, therefore, very much appreciate any information you can give me regarding the above questions.

Thanking you in advance for your courtesy and kind cooperation, I am

Very sincerely yours,

Felix Maier

Felix Maier

FM/s

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Entry 114 BV
File 146-39-0 Sec 3
Box One

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146-39-0

March 1, 1948

Mr. Felix Maier
433 South Rampart Blvd.
Los Angeles 5, Calif.

Dear Mr. Maier:

The "claims" to which I referred in the testimony which came to your notice were either claims for the return of property in the United States which the Alien Property Custodian has vested or debt claims against the former owners of such property which the Alien Property Custodian is authorized by law to pay to the extent the vested property permits.

You refer to your own claim as one "regarding . . . property and money in Austria which was seized by the German Reich". There is no law permitting the Office of Alien Property to make payment in respect of such a claim. As a citizen of the United States, you are entitled to whatever assistance this Government may give in furthering the position of claimants such as yourself. I understand that the State Department is giving consideration to this range of questions at the present time, and I therefore suggest that you write to Benedict M. English, Esquire, Assistant Legal Adviser, Department of State, Room 703, Walker Johnson Building, Washington, D. C.

Sincerely,

Max Isenbergh
Chief, Appeals and Legislation Branch

SIGNED AND MAILED
MAR 1 1948
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RG 60
Entry 114 BV
File 146-39-0 Sec 3
Box One

C
O
P
Y

2025 N. Catalina Str.
Los Angeles 27, Calif.
February 24, 48.

Mr. Max S. Eisenbergh,
Attorney aiding the
Alien Property Custodian
Department of Justice
Washington 25, D.C.

Dear Mr. Eisenbergh:

I recently saw an item in the local News Papers about your report to the Senate Judiciary Subcommittee regarding seized German assets and claims of American citizens.

I wonder, whether in the amount of 80.000 claimants there are only old American citizens included or whether this number contains also American citizens, that came to this country before the war because of Hitler.

Those American cititens (sic) became citizens a couple of years ago and I am one of them.

I filed in due time my claims with the Alien Property Custodian in Washington D.C. and I just wonder, whether my claims are also inkluded (sic) in the figure of 200.000.000.-, that according the News Papers represent the full amount of claims.

If it was, than I would have a chance of getting my money and that's why I am addressing you, to get this information.

Thanking you for your courtesy and kind attention in advance, I am

Yours very truly

(Signed) Marie Beer

Marie Beer

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Entry 114 BY
File 146-39-0 Sec 3
Box One

~~146-39-0 Sec 3~~

146-39-0

March 1, 1948

SH

Miss Marie Beer
2025 N. Catalina Str.
Los Angeles 27, Calif.

Dear Madam:

I regret that I have not seen the particular news item to which you refer, and therefore am not clear about your reference to "claimants". In general, there are two types of persons whose "claims" may be satisfied by the Office of Alien Property. They are (1) persons whose property in the United States was vested by the Alien Property Custodian and who are either nonenemies or are within the categories eligible for return under Section 32 of the Trading with the Enemy Act; and (2) persons who were either American citizens or residents of the United States since the beginning of the war and who had debts due and owing to them from other persons whose property the Alien Property Custodian has vested.

Your letter does not indicate whether your claim is one for the return of property or for the satisfaction of a debt. In either case the fact that you were a German citizen at one time would not necessarily be a barrier since your letter indicates that you came to the United States before the war and have since become an American citizen.

I am forwarding your letter to the Claims Branch of the Office of Alien Property which may be in a position to give you more specific information with respect to your particular claim.

Sincerely,

Max Isenbergh

Max Isenbergh
Chief, Appeals and Legislation Branch

SIGNED AND MAILED
MAR 1 1948
DIVISION OF RECORDS

347480

RG 60
Entry 114 BV
File 146-39-0 Sec 4
Box One

Office Memorandum • UNITED STATES GOVERNMENT

TO : Honorable Robert Kramer
Assistant Attorney General
Office of Legal Counsel

DATE: September 26, 1960

FROM : John F. Cushman
Executive Assistant to the Attorney General

RECEIVED
SEP 26 4 43 PM '60
OFFICE OF LEGAL COUNSEL

SUBJECT: Cornelia Pauline Hohne Dette - Claim No. 42446

Attached for informal review and recommendation is the Director's decision in Dette proposing allowance of a claim to a former member of the Nazi Party. While factually the case differs materially from Reinicke, it does present a common question under the "national interest" provision and also the first proposed allowance of a claim to a former Nazi. I would appreciate your views as the Attorney General indicated he would consider the cases together. The Reinicke file is attached for convenience.

Attachments

146-39-0
DEPARTMENT OF JUSTICE
19 OCT 5 1960
RECORDS BRANCH
RECORD
OFFICE OF LEGAL COUNSEL

Date of OAP decision Sept. 12, 1960
Time for review expires Nov. 12, 1960

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Entry 114 BV
File 146-39-0 Sec 4
Box One

RK:LU:hhl

John F. Cushman
Executive Assistant
to the Attorney General

OCT 4 1960

Robert Kramer
Assistant Attorney General
Office of Legal Counsel
OAP Claim No. 42446 -
Cornelia Pauline Hohne Dette

Files
Mr. Kramer
Mr. Ulman
Mrs. Copeland

FILED
BY ELDON
O 11 OCT 1960

10/4/60
146-39-0

W. I. B.

This is with reference to your request for our informal review and recommendation concerning the decision of the Director of the Office of Alien Property dated September 12, 1960, allowing the above claim for the return of vested property under § 32 of the Trading with the Enemy Act. The claimant, a German citizen who lived in Germany during the war, has been found eligible for return of the property as a persecutee of Jewish ancestry. The issue involved is as to the Director's conclusion that a return would be "in the interest of the United States", as required by § 32(a)(5). This issue arises because the claimant was a member of the Nazi Party from 1933 to 1942.

The Director is of the opinion that claimant's Nazi Party membership should not disqualify her under the "national interest" provision, since she joined the Nazi Party "for protective purposes at the instance of her Aryan father", and, after her membership in the Party "ended" in 1942,* she was subjected by reason of her Jewish ancestry to discriminatory treatment in the form of compulsory labor service. He states that this is the first claim--and apparently the only one filed--involving the eligibility of a person of Jewish origin who had membership in the Nazi Party.

You advise us that the Attorney General has indicated that he intends to consider the instant case and the Reinicke case together. The latter case also involves the "national interest" question in relation to a former member of the Nazi Party, who is otherwise eligible for return as an American citizen. In that case the Director has considered such

* The Hearing Examiner found that she "withdrew" from membership (Fdg. 5). The record on this is equivocal. Her official Party identification card (Exh. D) bears the pencil notation "Discontinued membership in July 1942."

Files

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Entry 114 BY
File 146-39-0 Sec.4
Box One

membership as precluding a return. We note from your memorandum to the Attorney General that it is your view that the Reinicke claim should be allowed since there was merely "inactive party membership acquired while a minor and not subsequently affirmatively given up when claimant reached his majority while on active duty [in the German Armed Forces]." As you put it, the Nazi affiliation "was at most a paper membership."

It should be noted that in this case the claimant also sought the return of a portion of the vested property as the successor in interest to her deceased brother, who died in the military service of Germany on July 28, 1944, subsequent to the date of vesting. This portion is approximately $19,000 out of a total of $103,000. Under the statute it is necessary that the brother's eligibility also be established. The Hearing Examiner found him eligible as a persecutee of Jewish ancestry. According to the Hearing Examiner, the brother could not complete his technical education as a civil engineer because of his Jewish background, and his special skills as a construction technician were not recognized by the military because of his Jewish background. It further appears that the brother, like his sister, joined the Nazi Party in 1933. Unlike his sister his membership was not discontinued. He remained a member until his death. The Director has not discussed the "national interest" question as it relates to the brother.

As you recognize, this case and the Reinicke case, while presenting a common question as to the effect of Nazi Party membership, differ materially from a factual standpoint. According to the Director, the claimant joined the Nazi Party "for protective purposes", presumably to avoid the hostility of the Nazis toward persons of Jewish descent. Apparently, her brother joined for the same reason. There is no indication that either was active in the Nazi Party, and the Hearing Examiner has found that both as persons of Jewish ancestry were treated in a discriminatory manner.

In the circumstances of this case, which is apparently unique, we do not think that the claimant and her brother should be disqualified on national interest grounds. The Hearing Examiner has found them eligible as racial persecutees. The Director agrees. The purpose of the persecutee provision

347483

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RG 60
Entry 114 BY
File 146-39-0 Sec 4
Box One

was "to afford relief to genuine victims of enemy persecution and yet * * * not open the door to claims * * * by persons who in fact identified themselves with the Axis cause." 79th Cong., 2d Sess., H.R. Rept. No. 2398, p. 18; S. Rept. No. 1839, p. 11. It is the established rule of the Office of Alien Property, as noted by the Director, that German citizens of part Jewish ancestry, like these claimants, suffered a substantial reduction of their civil rights within the meaning of the statute. In this case that finding has been made in the face of the fact that the claimant was a member of the Nazi Party from 1933 to 1942 and her brother was a member from 1933 to the date of his death, July 28, 1944. It may be that such membership could have been considered by the Hearing Examiner and the Director as an "identification with the Axis cause" sufficient to deny eligibility under the persecutee provision of the statute. However, accepting the finding of eligibility as justified by the record, it does not seem to us that the fact of Nazi Party membership can properly be used as a basis for denying a return on the national interest ground. We believe that it would be inconsistent to view the Nazi Party affiliation in this case as not a bar to eligibility on the ground of racial persecution but as a disqualification on the ground of national interest. It would seem that a determination that return would not be in the national interest would necessarily be based upon the conclusion that the claimant and her brother were sufficiently identified with the Axis cause so that they should be treated as enemies. This would be inconsistent with the conclusion reached by the Director that they were in fact racial persecutees.

347484

JDG:PVM:mdp
146-39-0

DEC 12 1962

FILE

Honorable Edward V. Long
United States Senate
Washington 25, D. C.

Dear Senator Long:

Thank you for your letter of December 4, 1962, transmitting a letter from Mrs. Sofia Pawlowska to you, dated November 28, 1962, relating to her request for information on how to proceed against the German Government for damages resulting from the confiscation of her property and impairment of her health.

Since this appears to be a matter which comes within the jurisdiction of the Foreign Claims Settlement Commission, Mrs. Pawlowska's letter and your request for a report have been referred to Edward Re, Chairman of the Commission, for his attention and reply.

FILE

Sincerely yours,

JOSEPH B. GUILFOYLE
Acting Assistant Attorney General

CAB
DEC 26 1962

SIGNED AND MAILED
DEC 12 1962
RECORDS ADMIN. OFFICE
DEPARTMENT OF JUSTICE

Sincerely Sofia

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REPRODUCED AT THE NATIONAL ARCHIVES

New York November 28 1962.

Mrs Sofia PAWLOWSKA
341 East 24 Street
New York, 10

NOV 29 1962

Honorable Senator Long.

I Sofia PAWLOWSKA U.S. Citizen 1910 Chicago Ill. Kindly I apply for aid in my restitution Claim from the German Government. Before World War II I lived for a few years in Poland.

When Hitlers Regime invaded Poland in 1939 they immidedly confiscated my property, I was in critical condition with no means of support. Upon my return from escape during the invasion I was not permitted to enter my property. The Gestapo Sec. Police told me I should register every day by the Secret Police.

also one person from the Under-grand told me I will be excuted by the Gestapo. I had no choice. So I enter in hidding... In 1942 the Gestapo arrested me as an American Citizen and put me in jail under inhuman condition. After 4 mounth sleeping on a cement floor, where I became ill. Afterwards, not having taken into consideration my poor health they proceeded to send me to cone. Ramp Lilienau Bavaria Germany.

Because of my poor health the Gestapo permitted me in 1944 to return to U.S. This is the reason. Hath I beg Hon. Senator for healp in my justified claims, how I can prossed for damages from the German Gover. for distruction and abuse my property, and my health which is the result of their brutal treatment and hunger.

also for confining me in prison. I hew all evidence to support my justified Claims.

Sincerely Sofia

347486

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