

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

IN THE MATTER OF THE CLAIM OF

ARTHUR SIMON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0479

Decision No. G-1072

Counsel for claimant:

Frederick M. Alberti, Esquire

PROPOSED DECISION

This claim in the amount of \$18,500.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of four pieces of real property, three of which were located in or near Sondershausen and one of which was located at Spittelchaussee.

The record indicates that claimant became a United States citizen on February 16, 1953.

Under section 602, Title VI of the Act the Commission is given jurisdiction as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. . ."

Section 603 of Title VI of the Act limits the Commission's jurisdiction as follows:

"A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss, and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

Claimant asserts that he is sole surviving heir of a family which had consisted of four brothers and sisters. Claimant's father and one brother died prior to World War II. Claimant's mother, his brother and sister and their families, as well as the family of his earlier deceased brother, all perished as a result of Nazi persecution and extermination of Jewish citizens during World War II. As a further part of the persecutory measures of the Nazi regime, the four pieces of property for which claim is made were all taken from the owners by the Nazi regime.

This original action taken against the property by the Nazi regime is not itself compensable under Public Law 94-542 as the action taken was not a nationalization, expropriation or other taking of property by the German Democratic Republic and it occurred at a time when it was not owned by nationals of the United States.

The Commission, however, has held in Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G -1071 that such persecutory losses at the hands of the Nazi regime will not be considered by the Commission to be effective to cut off all rights of the original owners or their heirs and that such persecutees continued to hold beneficial interest in said property.

The illegality of the Nazi action affecting this property was recognized after World War II by the State of Thuringia. Claimant has submitted a letter dated December 3, 1948, from the Ministerpraesident of Thuringia stating that two of the properties were already under the administration of the State being held pursuant to the Thuringia restitution law to allow claim to be made by the rightful former owners. The letter stated that two of the pieces of property had not yet come to their attention as property subject to a persecutory loss, but that the matter would immediately be investigated and the property taken under administration.

Claimant has submitted no further evidence to establish the nationalization, expropriation or other taking of property as required by section 602 of the Act.

The Commission held in Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G -1073 that decrees of September 6, 1951, and December 18, 1951, which provided for taking over administration of foreign owned property and the decree of July 17, 1952, confiscating or taking under administration property of former residents of the GDR constituted a governmental program which terminated all rights of restitution and in so doing constituted a taking of property interests of former persecutees and their heirs.


In the German Democratic Republic it was judicially determined by the District Court of Erfurt, Third Civil Council, in the indemnification case of Karoline Friedmann nee Ambach et al. v. Thueringer Zentral-Viehverwertonge G.m.b.H. et al., (1953), that the decree of September 6, 1951, had the effect of terminating the Thuringian restitution law. Therefore, absent specific evidence to the contrary, the Commission holds that four pieces of property for which claim is made herein were subject to governmental action which constituted a taking, as that term is used in Public Law 94-542, on September 6, 1951.

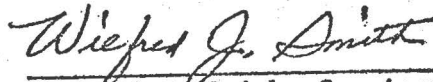
The Commission concludes, therefore, that the action found to be a taking of this property occurred on a date when claimant's interest therein was not owned by a national of the United States as required by section 603 of the Act. For this reason, the claim must be and hereby is denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

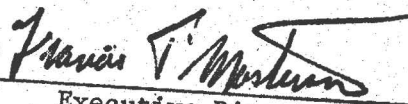
Dated at Washington, D.C.
and entered as the Proposed
Decision of the Commission.

JUL 25 1979


Richard W. Yarborough, Chairman


Wilfred J. Smith, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on AUG 29 1979


Executive Director

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)

At any time after Final Decision has been issued on a claim, or a Proposed Decision has become the Final Decision on a claim, but not later than 60 days before the completion date of the Commission's affairs in connection with this program, a petition to reopen on the ground of newly discovered evidence may be filed. (FCSC Reg., 45 C.F.R. 531.5 (1), as amended).