

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

IN THE MATTER OF THE CLAIM OF

FRANK W. LOWENSTEIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-1052

Decision No. G-3002

PROPOSED DECISION

This claim in the amount of DM 18,000 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 a mortgage on real property in Berlin at Franzstrasse 16.

The record indicates that claimant became a United States citizen on July 25, 1944.

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. . ."

Based on all the evidence, including statements of claimant and the report of an independent investigation conducted by the Commission's field office, the Commission finds that Dr. Ernst Loewenstein was the holder of a mortgage on real property in Berlin at Franzstrasse 16 before World War II.

The record in this claim indicates that legal title to the mortgage was originally lost during the Nazi regime as a result of racial and religious persecution. The Commission has held in the Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G-1071,

that such persecutory losses will not be considered by the Commission to have cut off all rights of the original owners or their heirs, and that the persecuted owners retained a beneficial interest in the property.

The record indicates that Dr. Ernst Lowenstein died in 1942 and that claimant FRANK W. LOWENSTEIN inherited 3/4 of the retained beneficial interest in the mortgage.

The Commission has also held in the Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G-1073, that decrees of September 6, 1951, effective in the German Democratic Republic, and December 18, 1951, effective in Berlin, which provided for taking over the administration of foreign owned property constituted a governmental program which terminated all rights of restitution of former persecutees or their heirs. The Commission found such a termination of rights to be a taking of the property interests of such persons; and, where the property interests were owned by United States nationals at the time of loss, the termination of rights would form the basis of a compensable claim.

Therefore, the Commission concludes that claimant's retained beneficial interest in the mortgage was taken by the German Democratic Republic on December 18, 1951.

The original amount of the mortgage was RM 18,000. The Commission finds, however, that the value of the mortgage on the date of taking could not have exceeded the value of the underlying real property which secured the mortgage. Due to extensive war damage to the real property at Franzstrasse 16, the Commission finds that the value of that property on the date of taking was only 13,000 reichsmarks. Therefore, the value of the mortgage interest which was taken was RM 13,000.

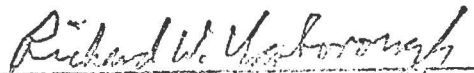
The Commission has held that in computing values, 4.2 reichsmarks equalled one dollar in 1951. Therefore, the value of the mortgage on the date of taking was \$3,095.00 and claimant is entitled to an award in the amount of \$2,321.25 for his 3/4 interest in the mortgage.

The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

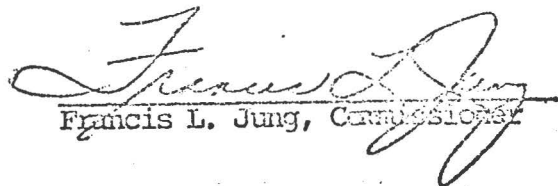
A W A R D

Claimant, FRANK W. LOWENSTEIN, is therefore entitled to an award in the amount of Two Thousand Three Hundred Twenty-One Dollars and Twenty-Five Cents (\$2,321.25), plus interest at the rate of 6% simple interest per annum from December 18, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.


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


Richard W. Vanzborough, Chairman

JAN 28 1981


Francis L. Jung, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 4 1981


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.)