

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

IN THE MATTER OF THE CLAIM OF

MARY WIENER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-1286

Decision No. G-2802

PROPOSED DECISION

This claim in an unstated amount 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 bank account and a factory building in Wittenberg, German Democratic Republic.

The record indicates that claimant became a United States citizen on January 15, 1946.

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. . ."

The evidence of record indicates that claimant's father-in-law, Baruch Wiener, had owned a shoe factory at Mauerstrasse 17 in Wittenberg, Germany. Upon Baruch Wiener's death in 1941, his four children inherited his estate in equal shares. Robert Wiener, a United States citizen from April 30, 1946, accordingly acquired a 25% interest in the subject property at that time.

The record in this claim indicates that legal title to the subject property 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 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 the taking over of 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. The Commission therefore finds that the beneficial interest in the subject property in Wittenberg was taken by the German Democratic Republic on September 6, 1951.

Robert Wiener, who had owned a 25% beneficial interest in the subject property, died in 1973, leaving as his sole heir his wife, claimant MARY WIENER.

The evidence of record in this claim includes a report from the Commission's West German field office, an affidavit from a former employee of the shoe factory, a description and sketch of the property submitted by the claimant, the tax assessed value of comparable buildings, and the general increase of land values in Europe. Taking into an account all of the above, the Commission finds that the factory building at Mauerstrasse 17 in Wittenberg had a value on September 6, 1951 of \$30,000.00. MARY WIENER, who inherited a 25% interest in the claim, is therefore entitled to an award of \$7,500.00 under section 602 of the Act.

Claimant also asserted the loss of a bank account in Wittenberg originally owned by her father-in-law prior to his death in 1941. As there is no evidence in the record establishing the existence of the account, its survival during World War II, and its taking by the German Democratic Republic after the War, the Commission finds that this portion of the claim must be and hereby is denied.

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)).

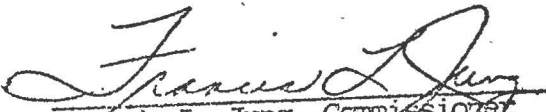
A W A R D

Claimant, MARY WIENER, is therefore entitled to an award in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) plus interest at the rate of 6% simple interest per annum from September 6, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

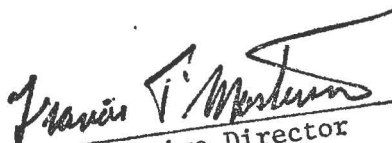
Dated at Washington, D.C.
and entered as the Proposed
Decision of the Commission.

JAN 7 1981


Richard W. Varborough, Chairman


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 FEB 11 1981


Executive Director

NOTICE: Pursuant to the 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.)