

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

IN THE MATTER OF THE CLAIM OF

ESTATE OF AENNI C. KAUFMAN, DECEASED  
ERIC G. KAUFMAN, EXECUTOR

Claim No. G-1462

Decision No. G-2471

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for Claimant:

Eric G. Kaufman, Esquire

PROPOSED DECISION

This claim in the amount of \$5,000.00 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 an ownership interest represented by two shares of common stock, of a face value of 500 reichsmarks each, in the Magdeburger Muehlenwerke AG (Magdeburg Flour Mill Works, Inc.), and the non-payment of a debt represented by seventeen gold bonds, of a principal amount of 100 reichsmarks each, issued by the "Pommersche Landschaft" ("Pomeranian Province").

The record indicates that claimant's decedent, Mrs. Aenni C. Kaufman, became a United States citizen on April 11, 1945.

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 herein establishes that the subject shares of stock and bond obligations were originally owned by claimant's decedent, Mrs. Aenni C. Kaufman, and continued to be owned by her at all relevant times until her death on July 15, 1952. Evidence in the record, together with evidence submitted in Claim of ERIC G. KAUFMAN, EXECUTOR, ESTATE OF AENNI C. KAUFMAN, DECEASED, Claim No. W-7461, Decision No. W-17583, filed in the earlier General War Claims program under Public Law 87-246, further establishes that, upon Mrs. Kaufman's death, her estate, including her interest with respect to the subject stock shares and bonds, passed under her will to her husband and three children, and that all of these persons have been United States citizens continuously from the date of Mrs. Kaufman's death until the filing of the present claim. The Commission therefore finds that the claimant, ESTATE OF AENNI C. KAUFMAN, DECEASED; ERIC G. KAUFMAN, EXECUTOR, is entitled to assert its claim in accordance with section 602 of the Act, above quoted.

With respect to the shares of common stock for which a claim is asserted, an investigation of this claim by the Commission's field office in West Germany disclosed that the Magdeburger Muehlenwerke AG, in which the stock represented an ownership interest, was placed under temporary control by the Soviet occupying forces in the territory of the present-day German Democratic Republic shortly after the end of World War II, and was then converted into a "people's-owned enterprise" by the East German governmental authorities a short time later. In the absence of evidence as to the exact date of this conversion, the Commission concludes from the record that the action should be considered to have occurred as of January 1, 1946, and that this action constituted a taking of the corporation within the meaning of section 602 of the Act. The Commission therefore finds that the ownership interest in the corporation represented by the subject stock shares was taken by the German Democratic Republic on January 1, 1946, and that claimant is entitled to an award for the loss of the ownership interest as of that date.

With respect to the amount of the award to be granted for this loss, no evidence has been submitted except for a bank document which confirms that the total face, or nominal, value of the subject stock shares was 1,000 reichsmarks. The investigation by the Commission's field office disclosed, in addition, that the stock issuer, Magdeburger Muehlenwerke AG, sustained no substantial damage or loss from military action during World War II, and it also disclosed the market value of the stock shares in Germany which had prevailed during the latter years of World War II.

Based upon the entire record, the Commission finds that the subject shares of stock had a total value of \$264.00 when the Magdeburger Muehlenwerke AG was taken on January 1, 1946. Claimant is accordingly entitled to an award in this amount.

With respect to the bonds for which a claim has been asserted, the investigation by the Commission's field office disclosed that the obligor on the bonds, the "Pommersche Landschaft," was a governmental instrumentality of the German Reich, and that it had its headquarters in the city of Stettin, which is now known as Szczeczin and is located in present-day Poland.

To be compensable under the Act, certain conditions must be met. The statute requires that the loss must have occurred in the German Democratic Republic or in East Berlin. Additionally, the loss must be the responsibility of the German Democratic Republic.

The Commission is aware of the fact that certain territory which now constitutes Poland, was, prior to 1945, part of Germany. However, subsequent to 1945, no control over this area was exercised by any German Government, and at no time was control over this area ever exercised by the German Democratic Republic. Moreover, no evidence has been submitted or otherwise obtained to establish that any of the assets of the Pommersche Landschaft were located within the territory of the German Democratic Republic.

In addition, as noted, the Pommersche Landschaft was a governmental instrumentality. It is a well established principle of international law, which the Commission has affirmed in the present claims program, that the mere non-payment of a debt owed

by a foreign government does not constitute a nationalization, or other taking of property under international law as required by section 602 of the Act. (Claim of RUFUS L. ULLMAN, Claim No. G-0018, Decision No. G-0205.)

The Commission, in certain past claims programs, has found claims for the debt obligations of foreign governments to be compensable where the evidence established that there was an express annulment or cancellation of a specific debt obligation by government decree or regulation which constituted a taking of the property right of the claimant or his predecessor in interest.

In the present claim, however, no evidence has been submitted as to any such express repudiation, annulment or cancellation of the debt obligation represented by the subject bonds, and no such evidence is otherwise available in the record.

For the foregoing reasons, this portion of the claimant's claim must be and it hereby denied.

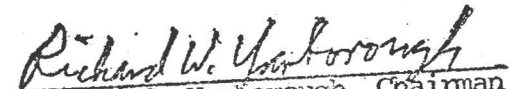
The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L.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

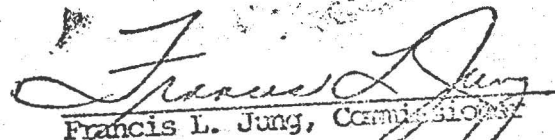
A W A R D

Claimant, ESTATE OF AENNI C. KAUFMAN, DECEASED; ERIC G. KAUFMAN, EXECUTOR, is therefore entitled to an award in the amount of Two Hundred Sixty-Four Dollars (\$264.00), plus interest at the rate of 6% simple interest per annum from January 1, 1946 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.

AUG 13 1980

  
Richard W. Yarborough, 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 SEP 17 1980

  
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.)