

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

IN THE MATTER OF THE CLAIM OF

WALTER PERGAMENTER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-2097

Decision No. G-1089

PROPOSED DECISION

This claim in the amount of 17,100 Reichsmarks 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 building in East Berlin. An unstated additional amount is also claimed for the loss of a printing office and the inventory thereof, also located in East Berlin.

The record indicates that claimant became a United States citizen on February 1954.

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."

By letter dated November 24, 1978, claimant was advised that the Commission's authority under Public Law 94-542 is limited to consideration of the nationalization, confiscation or other taking by the German Democratic Republic of property owned by United States nationals. The claimant was advised that although the property involved in the claim was originally lost during the Nazi regime, the Commission might consider that loss of ownership as a legal nullity since it resulted from a persecutory loss, so that if some action involving this property were subsequently taken by the German Democratic Republic, there was a possibility the claim might be compensable. Claimant was advised to obtain and submit evidence to establish that any action affecting this property occurred in or after February 1954, the date claimant assertedly acquired United States citizenship. To date, no such evidence has been received.


As the claimant has supplied no specific evidence of whether and, if so, when the subject property may have been taken, the Commission on its own has reviewed various decrees and regulations of the German Democratic Republic to see whether it can find a basis to presume that the subject property was taken in or after February 1954. Although the Commission is aware of decrees effective in 1951 and 1952 under which action may well have been taken against the subject property prior to its having become owned by a United States citizen, the Commission is not aware of any specific decrees or policies of the German Democratic Republic, nor has the claimant brought to the Commission's attention any such decrees, from which the Commission can presume that the subject property was taken in or after February 1954.

Therefore, based upon the foregoing, the Commission finds that the claimant has failed to establish that property was nationalized or otherwise taken by the German Democratic Republic at a time when it was owned by a United States citizen, as required for a claim to be found compensable under the Act.

For the above cited reasons, the claim must be and hereby is denied.

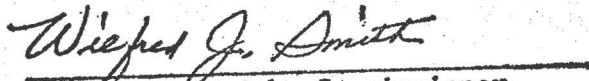
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

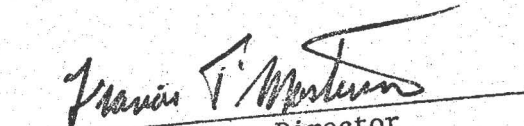
Dated at Washington, D.C.  
and entered as the Proposed  
Decision of the Commission.

  
Richard W. Yarborough, Chairman

AUG 1 1979

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on SEP 5 1979

  
Wilfred J. Smith, Commissioner

  
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).