

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

IN THE MATTER OF THE CLAIM OF

RALPH F. GASSMAN
URSULA ZANDMER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-2154

Decision No. G-1955

Counsel for claimants:

Edward Jasen, Esquire
Burns, Jackson, Miller, Summit
& Washington

Hearing on the Record held on **MAY 13 1981**

FINAL DECISION

This claim in the amount of \$950,000.00 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 improved real property in Berlin at Schoenhauser Allee 108 and Gaertner Strasse 7.

By Proposed Decision dated February 22, 1980, the Commission granted an award in the amount of \$25,089.29 to RALPH S. GASSMAN. The Commission based its award on its findings that Martin S. Gassman, a United States citizen since November 10, 1944, owned a one-half interest before World War II in the two parcels of real property which are the subject of this claim, that the two pieces of real property were taken by the German Democratic Republic on September 1, 1949, and that RALPH S. GASSMAN and URSULA ZANDMER, who were both United States citizens at the time, each inherited one-half of Martin S. Gassman's right to claim for the loss of the property upon his death in 1956. However, because URSULA ZANDMER lost her United States citizenship by becoming a Canadian citizen in 1970, no award was made for her share of the loss.

Objections to the Proposed Decision were subsequently raised asserting that RALPH S. GASSMAN and URSULA ZANDMER formed a partnership in 1967 with the proceeds of the estate of Martin S. Gassman, which included the right to claim for the loss of a one-half interest in the parcels of real property which are the subject of this claim. Claimants assert that the Ralur Partnership has at all times since 1967 been a United States national as that term is defined in section 601 of Public Law 94-542. Claimant also objects that the value of the loss as found by the Commission was insufficient.

Section 601 of Public Law 94-542 provides:

- (1) The term 'national of the United States means--
"(b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

In support of its objection, claimant has submitted two affidavits attesting to the fact that The Ralur Partnership was formed orally by RALPH S. GASSMAN and URSULA ZANDMER on May 4, 1967, apparently in Canada.

The Commission is thus faced with the issue of whether the Ralur Partnership is a United States national and a proper claimant under the Act.

The definition of "national of the United States" requires that two elements be met. In addition to the per centum ownership requirement, the entity must be organized under the laws of the United States, any State, the District of Columbia or the Commonwealth of Puerto Rico. Under the Commission's regulations, claimants have the burden of proof on all issues.

The Commission has examined the evidence and documentation submitted by claimants in support of their position that The Ralur Partnership is a national of the United States. Because the nature and origin of the Ralur Partnership are unclear from the record, the Commission finds that claimants have failed to meet the burden of proving that The Ralur Partnership was a United States national. The Commission concludes, therefore, that any

claim against the German Democratic Republic must be asserted by the individual partner, and the success of the claim must be measured by the nationality of the individual claimant.

Inasmuch as URSULA ZANDMER was not a citizen of the United States on the date of filing the claim, that portion of the claim must be and hereby is denied.

Claimants assert new arguments concerning the values of the property which is the subject of this claim.

The Commission has examined claimants' arguments concerning the valuation of the property on the date of loss. The Commission notes that claimants' arguments contain no new information but rather discuss different ways of interpreting evidence already considered by the Commission when it issued the Proposed Decision. The Commission has thoroughly considered claimants' arguments and re-examined the evidence of record but finds no reason to alter its finding as expressed in the Proposed Decision that the value of Martin S. Gassman's interest in the property on the date of taking totalled \$50,178.58.

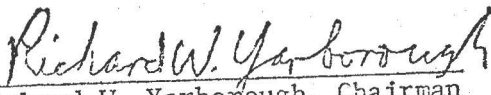
Therefore, the Commission affirms its award as expressed in the Proposed Decision and restates the award as the Final Decision of the Commission.

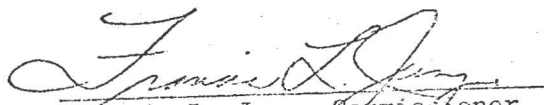
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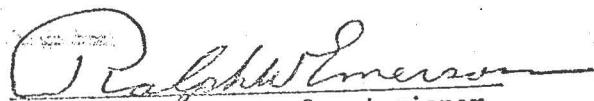
Claimant, RALPH S. GASSMAN, is therefore entitled to an award in the amount of Twenty-Five Thousand Eighty-Nine Dollars and Twenty-Nine Cents (\$25,089.29), plus interest at the rate of 6% simple interest per annum from September 1, 1949 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

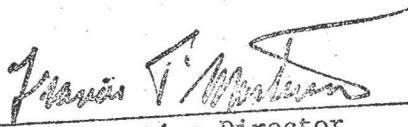
MAY 13 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAY 13 1981


Executive Director

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

IN THE MATTER OF THE CLAIM OF

RALPH F. GASSMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-2154

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PROPOSED DECISION

This claim in the amount of \$950,000.00 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 improved real property in Berlin at Schoenhauser Allee 108 and Gaertner Strasse 7.

The record indicates that claimant became a United States citizen on May 16, 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. . ."

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."

Based upon the report of an independent investigation conducted by the Commission's field office and information submitted by claimant, the Commission finds that Martin S. Gassman, a United States citizen since November 10, 1944, owned a 1/2 interest before World War II in two parcels of real property in Berlin at Schoenhauser Allee 108 and Gaertner Strasse 7.

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.

Based on all the evidence, the Commission finds that the beneficial interest retained by Martin S. Gassman was taken by the German Democratic Republic on September 1, 1949, and placed under the administration of the Deutsche Treuhandstelle.

The Commission has considered all the evidence, including the tax assessed value of each parcel, descriptions of the real property, and information concerning the general rise in land values in Eastern Europe, and concludes that the real property in Berlin at Schoenhauser Allee had a value on the date of taking of \$125,000.00, and that the real property at Gaertner Strasse 7 had a value on the date of taking of \$53,000.00. The Commission finds that Martin S. Gassman's 1/2 share in the two parcels was encumbered to the extent of \$38,821.42. Therefore, the value of Martin S. Gassman's interest in the property on the date of taking totalled \$50,178.58.

Upon the death of Martin S. Gassman in 1966, the right to claim for the loss of the property passed in equal shares to claimant, RALPH F. GASSMAN and Ursula Zandmer. The record indicates that Ursula Zandmer was a United States citizen from February 27, 1948 until her naturalization as a Canadian citizen in 1970.

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Therefore, the only portion of the claim that has been held by a national of the United States continuously from the date that the loss occurred until the date of filing with the Commission is the 1/2 share of the estate of Martin S. Gassman owned by claimant, RALPH S. GASSMAN. Therefore, claimant, RALPH S. GASSMAN, is entitled to an award in the amount of \$25,089.29.

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)).

G-2154


A W A R D

Claimant, RALPH S. GASSMAN, is therefore entitled to an award in the amount of Twenty-Five Thousand Eighty-Nine Dollars and Twenty-Nine Cents (\$25,089.29), plus interest at the rate of 6% simple interest per annum from September 1, 1949 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.

FEB 27 1980

For Presentation to the Commission


by David H. Rogers, Director
German Democratic Republic Claims
Division

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, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission any time after the expiration of the 30 day period following such service or receipt of notice. (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.)