

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

IN THE MATTER OF THE CLAIM OF

MAX KNISBACHER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-3054

Decision No. G-1567

Appeal and objection from a Proposed Decision entered on November 28, 1979. No Oral Hearing Requested.

Hearing on the Record held on OCT 20 1980

FINAL DECISION

This claim in the amount of \$18,000.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon the loss of a stamp collection left in an apartment in East Berlin.

By its Proposed Decision dated November 28, 1979, the Commission denied this claim on the basis that claimant had failed to submit evidence to establish that the subject stamp collection was nationalized, expropriated or otherwise taken by the government of the German Democratic Republic.

Claimant has objected on the basis that there is a strong presumption that the stamp collection survived the war without being destroyed or discovered and that expropriatory decrees by the government of the German Democratic Republic technically cover the confiscation of this particular type of property, even though the stamp collection itself may not have ever been taken.

The Commission has carefully considered the presumptions raised in claimant's objection and has again reviewed the entire record in this claim.

Claimant's objection is based on the argument that the stamp collection was hidden in a basement wall in 1938 and that the building survived the war intact, from which claimant argues that the Commission should presume that the collection survived the war and was taken by the German Democratic Republic.

The Commission cannot stretch the presumption to such an extent as claimant wishes. The Commission cannot rule out the possibility that the stamp collection was found and taken by unknown individuals between 1938 and 1945. If the Commission were to presume that the collection is still there, as claimant suggests, there would be no basis to conclude that it had been nationalized, expropriated or otherwise taken by the German Democratic Republic as required for a claim to be compensable under section 602 of the Act. The Commission can not assume that property, the existence of which is unknown to the German Democratic Republic has been taken by that Government.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim.  
(FCSC Reg., 45 C.F.R. §531.6(d) (1977)).

Claimant has not submitted any documentation in support of his position, and the Commission is unable to make any of the presumptions set forth in claimant's objection. The Commission finds therefore, that there is no basis to warrant the assumption that claimant's property was nationalized, expropriated or otherwise taken by the government of the German Democratic Republic as required under section 602 of the Act.

Therefore, the Commission affirms its original Proposed Decision as its Final Decision in this claim.

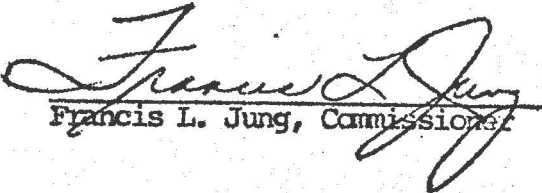
Accordingly, it is

ORDERED that the Proposed Decision be and it hereby is affirmed.

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

  
Richard W. Yarborough, Chairman

OCT 20 1980

  
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 OCT 20 1980

  
Executive Director

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PROPOSED DECISION

This claim in the amount of \$18,000.00 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 a stamp collection left in an apartment in East Berlin.

The record indicates that claimant became a United States citizen on June 26, 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. . ."

At the time of filing, claimant indicated that the subject stamp collection was left in one unit of an apartment building in 1938 which was owned by a relative. The apartment building was assertedly taken by the government of the German Democratic Republic after the close of the war.

Although claimant has submitted several letters and statements to establish his ownership of the stamp collection before World War II, he has submitted no evidence from which the Commission can find that the collection survived World War II, or that it was taken by the postwar government of East Berlin.

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.

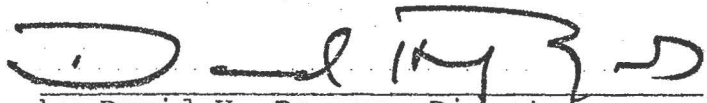
For the above cited reasons, the claim must be and hereby is denied.

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.

NOV 28 1979

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.)