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

IN THE MATTER OF THE CLAIM OF

JON M. GROETZINGER

Claim No. G-3160

Decision No. G-3271

Under the International Claims Settlement Act of 1949, as amended

Hearing on the Record held on MAY 13 1981

FINAL DECISION

This claim in the amount of $65,923.00 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 mortgage of a principal amount of 21,000 marks on a parcel of real property in Plauen, accrued interest payments on the mortgage assertedly amounting to 6,237 marks, and a 130,000-mark loan owed by the firm "Johannes Lange Radio-Apparate G.m.b.H." in Plauen.

By Proposed Decision dated February 25, 1981, the Commission granted to the claimant an award of $132.83 based upon the loss of two bank accounts, containing a revalued total of 557.89 marks, through a taking of the accounts by the German Democratic Republic as of August 11, 1952. The remainder of the claim was denied, however, and the various reasons for denial are stated in the Proposed Decision.

Claimant, through his attorney, has objected to the Proposed Decision, and has advanced several arguments and contentions in support of his objection. These are set forth and discussed below.

In his objection to the denial of his claim for the 130,000-mark loan which had been made by his father to the Johannes Lange radio factory in Plauen, claimant first contends that contrary to the findings in the Proposed Decision, the bankruptcy of the Lange radio factory was in fact the result of Nazi religious and racial persecution, and was not brought on simply as a result of economic factors and personal enmity against the factory's principal owner and manager, Johannes Lange, because of his earlier resignation from the Nazi Party. On this basis, he then argues that his mother, the then-creditor on the loan, should be held to have retained a beneficial interest in the factory and its assets after the bankruptcy and liquidation, which interest would then have been taken by the German Democratic Republic after World War II. Secondly, claimant disputes the findings in the Proposed Decision that the bankruptcy proceeding and distribution of the factory's liquidated assets was substantially completed prior to World War II and that no assets which were identifiable or of appreciable value would have remained in existence after World War II to be subjected to a taking by the German Democratic Republic. His argument is that although the liquidation and distribution of the majority of the factory assets may have been completed before World War II, there remained the dispute between the trustee in bankruptcy and his mother regarding her entitlement to a pro rata payment on the subject loan, as against the invested capital payment of 63,000 marks allegedly owed by her as her husband's successor in interest, and that until the dispute was resolved, the trustee "should have held an amount in escrow" to provide for her pro rata payment. Thirdly, claimant contends that the trustee in bankruptcy in fact had no legal basis for maintaining the aforementioned dispute, asserting that even if the invested capital share allegedly owed by his mother technically had not been paid in, the trustee "had nevertheless received 63,000 reichsmarks, whether he cared to characterize them as debt or equity, and could have applied the money received as a loan to satisfy the alleged capital contribution requirement." Claimant

then concludes by arguing that the Commission should hold that the entire loan, rather than any pro rata share, was payable out of the liquidated factory assets because the bankruptcy proceeding had been brought on as a result of religious persecution.

Having reviewed the record, the Commission concludes that a revision of the findings made as to this portion of the claimant's claim is warranted. Specifically, the Commission now finds that as a result of claimant's father's cancellation, in 1928, of a prior separate loan of 63,000 reichsmarks to the Lange radio factory, he thereby acquired an equity interest in the business of a nominal value of 63,000 reichsmarks, and that this interest then passed to claimant's mother after his father's death and was held by her until the Johannes Lange factory business was liquidated during the 1930's. Furthermore, having again reviewed the facts of the claimant's claim, as reflected in the record, the Commission now concludes that the bankruptcy and liquidation of the Lange radio factory business was brought about primarily as a result of Nazi religious and racial persecution, due to the presence of claimant's mother, as well as another Jewish person, among the owners of the equity in the business. According to the record, the invested capital in the business had a total value of 223,000 marks, thereby giving the claimant's mother a 28% fractional interest in the assets of the business as it existed prior to liquidation. The Commission therefore finds that, notwithstanding the liquidation of the Johannes Lange factory business in the 1930's, claimant's mother, Blanche Groetzinger, retained a 28% beneficial ownership interest in the assets in the business, and that, under the reasoning set forth in the Proposed Decision, her interest was then taken by the German Democratic Republic, within the meaning of the Act, as of September 6, 1951. As the heir of his mother's estate, claimant is accordingly entitled to a further award based upon the right to claim for that loss, which award shall date from September 6, 1951.

With respect to the value to be attributed to this loss, it was noted in the Proposed Decision that the record is devoid of evidence indicating that assets pertaining to the Johannes Lange

radio factory, other than the real property which had served as the factory premises, were still in existence in identifiable form after World War II. According to certain letters written by Johannes Lange before and after World War II, copies of which are in the record, that real property had a value of approximately 160,000 marks before the factory business was liquidated. Based upon the entire record, and taking into account the general rise in real property values in Eastern Europe in the years following World War II, the Commission finds that the factory real property had a value of $60,000.00 when claimant's mother's beneficial interest therein was taken by the German Democratic Republic in 1951. For the right to claim for the loss of that 28% beneficial ownership interest, claimant is accordingly entitled to an award of $16,800.00, which amount shall augment the award previously granted in the Proposed Decision.

As for the remainder of this portion of the claimant's objection, however, the Commission finds it to be without merit. Claimant's assertions notwithstanding, the record indicates that the liquidation of the factory business was substantially completed before World War II, and there is no indication that any assets other than the factory real property were still in existence after World War II to be the subject of a "nationalization, expropriation, or other taking" by the German Democratic Republic, as must be established in order for a claim to be compensable under the Act. Furthermore, a claim based upon the loss of the 130,000-mark loan obligation itself cannot be found compensable, since the definition of "property" in the Act does not include debts as a general class of property interests, but only defines as property those debts which are "owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic," and the Johannes Lange enterprise was no longer in existence after World War II to be the subject of such a taking. Likewise, a claim for the pro rata payment due on the loan, which was assertedly held in escrow by the trustee in bankruptcy cannot be found compensable, inasmuch as the record contains no evidence

establishing either that the escrow deposit was in fact made or that any other monies realized from the liquidation of the factory assets were still in existence after World War II.

With respect to the 21,000-mark mortgage, claimant contends that the evidence submitted is sufficient to establish that the mortgage was nationalized or otherwise taken by the German Democratic Republic. In support of this contention, he points to the statement in the Proposed Decision that, according to the original mortgage debtor, Johannes Lange, the new owner of the property securing the mortgage "did not pay any interest since Plauen was occupied by the Russians," asserting that this is "clear evidence" that governmental action was the cause of the new owner's failure to make the payments due. In addition, he asserts that even if the new owner's failure to pay was merely a private default, as the Commission held in the Proposed Decision, it would be impossible for him to recover against the new owner in a legal proceeding instituted in the German Democratic Republic, and that such impossibility also amounts to a taking of the mortgage. Thirdly, he asserts that even if he were able to institute such a proceeding, any monies he might obtain through execution of a judgment against the mortgaged property would be "frozen and unavailable" in the same manner as the bank accounts for which an award was granted in the Proposed Decision, a fact which would also establish a taking of the mortgage by the German Democratic Republic. As a fourth point, claimant asserts that "it is probable" that the real property which secured the mortgage was owned by the German Democratic Republic "at the time of the taking," apparently referring to the date of September 6, 1951, when the German Democratic Republic issued a decree directing that foreign-owned property be placed under governmental administration. He then states that it would be a "great burden" for him to ascertain from the land records in Plauen the ownership of the encumbered property "on the date of the taking," and he therefore has requested that the ownership be ascertained by the Commission's field office in West Germany or that the Commission otherwise inform him how he might determine such ownership, asserting that his

claim should not be denied "merely because an accessible record has not been reviewed." Finally, he asserts that the Commission is without authority to make the presumption, set forth in the Proposed Decision, that the encumbered property was sold by the original mortgage debtor, Johannes Lange, to a private individual and that the property was then owned continuously thereafter by one or more private individuals.

This portion of the claimant's objection is also without merit. In the first place, claimant apparently is urging the Commission to interpret the statement that the new owner of the real property which secured the subject mortgage had failed to make payments "since Plauen was occupied by the Russians" to mean that the new owner did not pay "because" Plauen was occupied by the Russians. However, such an interpretation cannot fairly be drawn from that language. Instead, it is clear that the statement's meaning is merely that no further payments were made after the Russian occupation of Plauen. Furthermore, even if the occupation was a factor in the new owner's failure to pay, it does not follow that a taking of a mortgage, as that term is used in the Act and understood under international law, was the necessary result. In order for the Commission to be able to find a taking was effected, it must have evidence establishing that the mortgage, or funds comprising the principal or interest pertaining thereto, were nationalized or otherwise taken by governmental authorities or entities of the German Democratic Republic. Merely excusing a debtor, for his own benefit, from making payments owed by him, or prohibiting him from transferring funds across a political boundary, for purposes such as currency exchange control, does not amount to a taking of property by the German Democratic Republic, either under the present Act or under international law.

Secondly, claimant has submitted no evidence, nor has he referred the Commission to any legal authority, to support his assertion that he would be precluded from bringing suit against the debtor on the subject mortgage for the payments owing thereon. In fact, the Commission is aware from information received from

the German Democratic Republic in connection with other claims that such private civil proceedings can be instituted.

Thirdly, claimant is incorrect in his assertion that the prohibition by the German Democratic Republic of a transfer, out of the country, of such monies as he might obtain from executing a judgment against the encumbered property would be a taking of the mortgage, within the meaning of the present Act. As already pointed out, such restrictions do not amount to a taking of property, either under the present Act or under international law, but are considered legitimate exercises of authority by a sovereign government for purposes of currency regulation and control. See, e.g., Claim of MARTIN BENDRICK, Claim No. G-3285, Decision No. G-0220. The Commission's finding that the bank accounts for which an award was granted in the Proposed Decision were taken by the German Democratic Republic was based on the further fact that monies belonging to foreign nationals which were on deposit in banks in the territory of the German Democratic Republic as of the end of World War II were not only "frozen," insofar as a transfer to other countries was concerned, but they were also unavailable to their owners for use within the German Democratic Republic, and many of the accounts in fact were eventually confiscated during the early 1950's.

Claimant's further assertion that it is "probable" that the property encumbered by the subject mortgage was under governmental or foreign-national ownership at any time after World War II is nowhere supported in the record. On the contrary, the statements by the former mortgagor, Johannes Lange, give every indication that he transferred the encumbered property to a private individual who was a German citizen and a resident of Plauen. If it had been possible, the Commission would have requested its field office in West Germany to examine the land records in Plauen to ascertain the ownership of the encumbered property at the relevant times; however, the German Democratic Republic government has not permitted such access, and has otherwise provided only a limited amount of information on a small portion of the approximately 3,900 claims filed with the Commission. In any case, it should

be pointed out that under the Commission's regulations, the claimant has the burden of proof to establish the elements of compensability in his claim. See FCSC Reg., 45 C.F.R. § 531.6 (d) (1977).

Finally, claimant has cited no authority for his assertion that the Commission is not authorized to make the presumption that the mortgaged property was sold to and continued to be owned by private individuals after World War II. That presumption is perfectly permissible from the evidence in the record. Furthermore, the permissibility of such presumptions is implicit in the fact that the claimant has the burden of proving the compensability of his claim.

With respect to the claimed bank accounts, claimant objects to the process by which the Commission arrived at the valuation of the accounts at $132.83 as of 1952. First, he asserts the belief that the mortgage interest from which the account funds originated was payable in gold reichsmarks, and he contends that the present-day value of gold should therefore be used in determining the amount of his award. Secondly, he objects to the Commission's award of interest in his claim at the rate of 6% simple interest per annum, asserting that the award should be in terms of compound interest.

This portion of the claimant's objection is also without merit. Even if the payments in question had at one time been payable in gold, the evidence of record establishes that they in fact were made in ordinary reichsmarks, which, as stated in the Proposed Decision, were revalued in the currency reform of 1948 at a ratio of ten reichsmarks to one ostmark. Furthermore, even if the value of gold were a factor in determining the amount of claimant's award for the accounts, present-day gold values would be totally irrelevant, since the taking of the accounts was effected in 1952.

As for claimant's objection to award of interest in his claim in terms of simple interest, the Commission's determination that interest at 6% simple interest per annum should be granted on awards in the present claims program is based upon the earlier decision in Claim of JOHN HEDIO PROACH, Claim No. PO-3097, FCSC

Dec. and Ann. 549 (1968), filed against the Government of Poland under Title I of the International Claims Settlement Act of 1949, as amended. In the PROACH decision the Commission concluded that such an award of interest represents an "appropriate, equitable, and just measure of compensation." Claimant has submitted nothing which could serve as a basis for departing from the rule established in the Commission's earlier decisions, and the Commission concludes that the application of that rule in his claim is appropriate and reasonable.

The Commission therefore withdraws the award of $132.83 which was granted in the Proposed Decision, and grants to the claimant an increased award of $16,932.83 as set forth below. In all other respects, the Commission affirms the findings made in the Proposed Decision. This constitutes the Commission's final determination in this claim.

A W A R D

Claimant, JON M. GROETZINGER, is therefore entitled to an award in a total amount of Sixteen Thousand Nine Hundred Thirty-Two Dollars and Eighty-Three Cents ($16,932.83) consisting of $16,800.00 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, and $132.83 plus interest at the rate of 6% simple interest per annum from August 11, 1952, 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

Richard W. Yarborough, Chairman

Francis L. Jung

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 MAY 13 1981

Ralph W. Emerson

Ralph W. Emerson, Commissioner

Francis T. Martens

Executive Director

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

IN THE MATTER OF THE CLAIM OF

JON M. GROETZINGER

Under the International Claims Settlement Act of 1949, as amended

Claim No. G-3160

Decision No. G-3271

Counsel for Claimant: Jon M. Groetzinger, Jr., Esquire

PROPOSED DECISION

This claim in the amount of $65,923.00 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 mortgage of a principal amount of 21,000 marks on a parcel of real property in Plauen, accrued interest payments on the mortgage assertedly amounting to 6,237 marks, and a 130,000-mark loan owed by the firm "Johannes Lange Radio-Apparate G.m.b.H." in Plauen.

The record indicates that claimant became a United States citizen by birth in the United States in 1917.

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 . . ."

With respect to the mortgage for which a claim is asserted herein, documentation in the record establishes that claimant's father, Isidor Groetzinger, had acquired the mortgage in exchange for a loan to one Johannes Lange in Plauen in 1926. It appears from the record that the encumbered property was located in Plauen and was the private residence of the mortgagor, Johannes Lange. The record further indicates that the mortgage was re-entered in the name of Isidor Groetzinger's wife, Blanche Groetzinger, shortly after the death of Isidor Groetzinger in 1932. Documentation in the record establishes that Blanche Groetzinger was a United States citizen by birth.

The record further establishes that claimant's mother, Blanche Groetzinger, was still the legal owner of the subject mortgage after World War II. Claimant alleges that the mortgage was then taken by the German Democratic Republic in or about 1947, and he asserts the right to claim for this loss as the beneficiary of his mother's estate, following her death in 1968.

According to a letter written to the claimant by the mortgagor, Johannes Lange, from Munich, apparently in early 1948, the property securing the subject mortgage had been sold, apparently a short time before the end of World War II. Johannes Lange further stated in the letter that the new owner of the property "did not pay any interest [on the mortgage] since Plauen was occupied by the Russians," but that he had sued the new owner, had obtained the interest payments due up to June 1947, and was preparing to sue the owner again for the further interest payments due as of the date of his letter--which, as noted, was apparently some time in early 1948. Johannes Lange also stated that a portion of the interest payments amounting to 4,000 marks had been placed on deposit in the "Saechsische Landeskreditbank Plauen" in claimant's mother's name in a "stopped" status, and that a second portion of the interest payments amounting to 2,237 reichsmarks was then on deposit in the "Bayerische Vereinsbank" in Munich in claimant's mother's name.

The record contains no indication as to whether the property owner was ever in fact sued again for the further interest due on the mortgage, or whether any further payments of interest on the mortgage were ever made after June 1947. However, even if it is assumed that no further payments were made, such a failure would constitute merely a default by the new mortgagor, the subsequent owner of the mortgaged property. Inasmuch as the record contains no evidence indicating that this default, if it occurred, was the result of governmental action by the German Democratic Republic, it cannot be said that the loss sustained by claimant's late mother through such default amounted to a nationalization or other taking of her mortgage, within the meaning of section 602 of the Act.

Furthermore, no basis is available for a presumption that the encumbered property, and hence the mortgage thereon, would have been taken by the German Democratic Republic authorities at any time either before or after 1947. The Commission is aware that, pursuant to the "Decree on the Administration and Protection of Foreign-Owned Property in the German Democratic Republic" of September 6, 1951, property owned by persons who were not German citizens was placed under public administration by the German Democratic Republic government, and the Commission has held that this action would be considered to amount to a nationalization or other taking of such property. However, in the absence of a basis for such a presumption, the Commission can only conclude that the encumbered property has continued to be privately owned and that the subject mortgage, although in default, continues to remain outstanding thereon.

Accordingly, inasmuch as the record provides no basis for a finding that the mortgage claimed herein has been nationalized or otherwise taken by the German Democratic Republic, the Commission is without authority under the Act to find the claimant's claim for the loss of the mortgage to be compensable. This portion of his claim must therefore be and it is hereby denied.

With respect to the mortgage interest payments for which a claim is asserted, the record indicates that the original mortgagor, Johannes Lange, made payments of 945 reichsmarks per year into a "blocked" account in claimant's mother's name at the "Konversionskasse fuer Deutsche Auslandsschulden" ("Exchange Bank for German Foreign Debts") on Wallstrasse, in what is now East Berlin, through 1939; documentation in the record establishes that as of November 31, 1939, the amount on deposit in the account was 1,578.87 reichsmarks. In addition, as previously set forth, the letter from Johannes Lange to claimant's mother in 1948 indicates that an additional 4,000 reichsmarks of accumulated interest payments was then on deposit in claimant's mother's name in a bank in Plauen.

Based upon the record, the Commission concludes that these two accounts, of a total amount of 5,578.87 reichsmarks, would have represented the total amount of interest payments on deposit in claimant's mother's favor in territory which is now a part of the German Democratic Republic when World War II ended in Europe on May 8, 1945. In 1948, pursuant to a currency reform, this total of 5,578.87 reichsmarks would then have been converted at a rate of ten reichsmarks to one ostmark into a new total of 557.89 ostmarks. The Commission has held that this conversion of reichsmarks to ostmarks at a ten to one ratio does not give rise to a claim under international law. (Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221).

The Commission further concludes that these accounts, totalling 557.89 ostmarks, would then have come within the purview of the previously-cited "Decree on the Administration and Protection of Foreign-Owned Property in the German Democratic Republic" of September 6, 1951. The Commission has held that the implementation of the provisions of that decree constituted a taking of property subject thereto, within the meaning of the Act, and that, in the absence of more specific evidence, the action would be considered to have occurred as of August 11, 1952, the date of the first regulation implementing the decree. The Commission has further held that in determining the amounts of awards for such losses, the conversion ratio of 4.2 ostmarks to one dollar should be used (See Claim of OLGA LOEFFLER, cited above).

The Commission therefore finds that the two bank accounts here in question, containing a revalued total of 557.89 ostmarks, were taken by the German Democratic Republic, within the meaning of the Act, as of August 11, 1952. For his right to claim for the loss of the accounts, claimant is accordingly entitled to an award of $132.83, dating from August 11, 1952.

Claimant has also included a further sum of 2,237 reichsmarks as part of his claim for lost interest payments on the subject mortgage. As previously noted, Johannes Lange had written in 1948 that this sum was then on deposit in claimant's mother's name in a bank in Munich. However, inasmuch as the City of Munich is not and has never been within the territory or control of the German Democratic Republic, this bank account could not have been subjected to a nationalization or other taking by the German Democratic Republic, as required for compensation under the Act. Accordingly, this portion of the claimant's claim must also be and it is hereby denied.

Finally, with respect to the 130,000-mark loan for which a claim is asserted, the record indicates that claimant's father, Isidor Groetzinger, had originally extended a loan of 147,000 reichsmarks to the Johannes Lange Radio Factory in Plauen prior to his death in 1932. The principal amount of the loan was then paid down to the claimed figure of 130,000 reichsmarks in or about 1934, and claimant's mother, Blanche Groetzinger, was recognized as the creditor on the loan as her husband's successor in interest.

The record further indicates that, apparently for reasons both political and economic, the Johannes Lange Radio Factory was forced into bankruptcy in 1934 or 1935. The economic reason appears to have been that the firm was operating on a scale which was insufficient to permit it to compete effectively with the larger concerns which were engaged in the manufacture and sale of radio sets in Germany at the time. More significantly, it appears that following the advent of the Nazi regime in 1933, political pressures began to be applied against the firm to disrupt its operations and bring about its economic failure. These actions apparently were motivated to a partial extent by the fact that Isidor and Blanche Groetzinger, as well as another former partner of the firm, Gustav Eisner, were Jewish, and the principal partner of the firm, Johannes Lange, was known to have Jewish friends and acquaintances, and to disagree with the notions of "Aryan superiority" and bigotry against Jews which were then being promoted by the Nazi regime. The principal motivation for the actions, however, appears to have been the enmity which had arisen between Johannes Lange and certain persons in high positions in the Nazi Party organization in Plauen, due to the fact that Johannes Lange had resigned from the party in 1929 and thus was considered a "traitor."

Legal proceedings to liquidate the remaining assets of the Johannes Lange firm and pay off its creditors thus began in Plauen in or about 1935, and the record indicates that claimant's mother was recognized as one of the creditors entitled to such payment. According to various letters in the record, the proceedings were still in progress as late as 1938 or 1939, although it appears that the proceedings had already been substantially completed as of 1937, at which time the trustee in bankruptcy had made a 4.5% pro rata distribution to the firm's creditors out of the liquidated assets. Furthermore, it appears that the real property owned by the firm had already been sold off as of 1936.

It was also stated, in one of the letters in the file, that as of 1937, the pro rata repayment owed to claimant's mother on her loan to the firm was being retained by the trustee due to an unresolved question regarding Isidor Groetzinger's cancellation, in 1928, of a separate 63,000-mark loan to the firm in exchange for a partnership interest therein. The issue was whether, due to a technical error in document preparation, the cancellation of the loan was valid under German law as a contribution of invested capital. If not, claimant's mother would have been vulnerable to a counter-claim by the trustee in bankruptcy for payment of her late husband's technically unpaid capital share of 63,000 reichsmarks in the firm, thereby completely offsetting any pro rata loan repayment to which she might have been entitled.

It cannot be ascertained from the materials in the record whether the dispute over Blanche Groetzinger's creditor rights and alleged partnership liability was ever resolved, nor do the materials indicate whether or when the bankruptcy proceedings were final terminated. Claimant's contention is that the proceedings in fact never were terminated prior to the demise of the Nazi regime and the division of Germany in May 1945, with the result that assets of the bankrupt firm would still have been in existence after World War II and thus could have been subjected to nationalization by German Democratic Republic, within the meaning of section 602 of the Act. Claimant urges the Commission to presume that such nationalization was effected, and to find his claim based upon the loss of his late mother's creditor interest in those assets to be compensable under the Act.

In order for the Commission to be able to find that a claimant has sustained a compensable loss, it must have before it evidence establishing that identifiable property or an interest therein which was owned by the claimant or his predecessor was nationalized or otherwise taken by the German Democratic Republic; the Act does not authorize the Commission to make findings of compensability as to claims based on losses resulting from actions by the Nazi regime. In a number of decisions to date, the Commission has favorably considered claims for identifiable property--primarily real property--to which legal title was originally lost by its owners during the Nazi regime as a result of religious and racial persecution. In those instances, the Commission has held that the persecuted owners, or their heirs, as applicable, retained a beneficial interest in their property, notwithstanding their loss of legal title, and that this beneficial interest carried over beyond the end of World War II. Such interests are then considered to have been taken by the German Democratic Republic when it terminated any further possibilities of restitution of the rightful owners' legal title in 1951, thereby giving rise to a compensable claim under the Act.

In the present claim, however, the evidence submitted indicates that the bankruptcy proceedings relating to the Johannes Lange firm, and the resultant liquidation of the firm's assets, were substantially completed prior to World War II. The Commission is therefore unable to conclude from the record that any assets of the firm which were identifiable or of appreciable value would still have been in existence after World War II to be nationalized or otherwise taken by the German Democratic Republic.

Furthermore, the Commission concludes from the record that the forcing of the Johannes Lange firm into bankruptcy and liquidation was directed primarily against the principal partner, Johannes Lange, for reasons of political enmity, and not for purposes of promoting religious and racial persecution. As such, the Commission is unable to conclude that claimant's mother, whether as a creditor or a co-owner of the firm, would have retained a beneficial interest in real property or other such assets formerly owned by the firm which would have carried over beyond the end of World War II and then have been taken by the German Democratic Republic.

For the above-cited reasons, this portion of the claimant's claim must also be and it is 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, JON M. GROETZINGER, is therefore entitled to an award in the amount of One Hundred Thirty-Two Dollars and Eighty-Three Cents ($132.83), plus interest at the rate of 6% simple interest per annum from August 11, 1952 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 25 1981

Richard W. Yarborough, Chairman

Francis L. Jung, Commissioner

Ralph W. Emerson, Commissioner

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.)