

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

IN THE MATTER OF THE CLAIM OF

LOTTE ROSENBERG

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-3851

Decision No. G-2380

Appeal and objection from a Proposed Decision entered on July 16, 1980. No oral hearing requested.

Hearing on the record held on 'NOV 19 1980'

FINAL DECISION

This claim in an unstated amount 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 two apartment buildings located at Raabestrasse 11 and 12 in Berlin.

By Proposed Decision issued July 16, 1980, the Commission denied this claim on the ground that the claim had not been timely filed. The period for filing claims under the statute closed on May 16, 1978. Claimant's Statement of Claim was dated October 31, 1978 and received by the Commission on November 6, 1978. The Commission did note that, had the claim been timely filed, claimant would have been entitled to an award in the principal sum of \$13,000.00 for a one-half interest in property located at Raabestrasse 11 in Berlin. The Commission further held that no evidence had been submitted to establish that claimant would have been entitled to an award for the loss of property located at Raabestrasse 12 in Berlin.

By letter dated July 21, 1980, claimant "protested" the decision stating that all claims have been filed promptly in strict compliance with instructions and had not been rejected for

any expiration dates and that, while compensation for the building at Raabestrasse 11 "has been properly settled," there was no reason for not recognizing and treating the property at Raabestrasse 12 in the same fashion.

The Commission treated this letter as an objection and, by letter dated July 25, 1980, gave claimant 60 days to submit any evidence or comments she wished considered by the Commissioners. By letter dated September 24, 1980, claimant informed the Commission that "the matter is still pending before the West German Equalization of Burdens program" and that she expected a decision which will "also refer to the question of timeliness for any compensation."

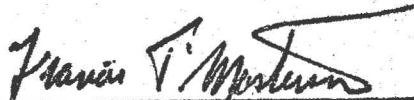
It appears to the Commission that the claimant may be confusing the procedures of two totally separate programs. Claimant apparently has a claim pending with the Equalization of Burdens program in the Federal Republic of Germany. This is a totally distinct and separate program from that being conducted by the Commission under Public Law 94-542. As far as the Commission is concerned, the claimant may have a valid claim in that program, however, that would in no way affect the timeliness of claimant's filing with the Commission under Public Law 94-542.

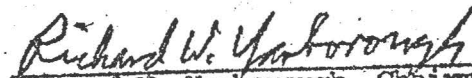
Claimant having submitted no evidence or reason to reconsider and change the Proposed Decision, the Commission hereby affirms its Proposed Decision as its final determination of this claim.

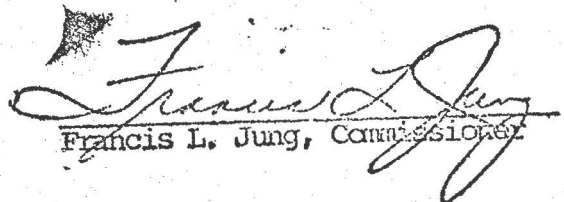
Dated at Washington, D.C.
and entered as the Final
Decision of the Commission.

NOV 19 1980

This is a true and correct copy of the decision of the Commission which was entered as the final decision on NOV 19 1980


Executive Director


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner

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

IN THE MATTER OF THE CLAIM OF

LOTTE ROSENBERG

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-3851

Decision No. G-2380

PROPOSED DECISION

This claim in an unstated amount 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 two apartment buildings located at Raabestrasse 11 and 12 in Berlin.

The record indicates that claimant became a United States citizen on December 4, 1944. The record also indicates that claimant is the successor in interest to one-half of the estate of her mother, Ella Bieber, who acquired United States citizenship on June 28, 1948 and died on January 23, 1963.

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. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later." (Emphasis added.)

The period for the filing of claims under the statute commenced on May 16, 1977 and closed twelve months later on May 16, 1978. Thus, the filing period extended for the maximum time--twelve months--allowed under Public Law 94-542. The subject claim, however, was dated October 31, 1978 and received at the Commission on November 6, 1978. Since the one-year filing period provided under the statute had already expired, this claim was not timely filed. Under Public Law 94-542, therefore, the Commission is not authorized to grant an award.

Based upon the evidence of record, the Commission finds that this claim would have been compensable in part if it had been timely filed. The record establishes that the property at Raabestrasse 11 in Berlin was owned before World War II by the claimant's mother and predecessor in interest, Ella Bieber, and that this property was lost during the Nazi era as a result of racial and religious persecution. Based upon the Commission's precedents in the Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G-1071 and the Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G-1073, the Commission finds that Ella Bieber would have retained a beneficial interest in the subject property after its loss during the Nazi era and that this beneficial interest would have been taken by the German Democratic Republic on December 18, 1951, when a law was passed in East Berlin which effectively terminated all rights of restitution of former persecutees or their heirs who by that time were citizens or permanent residents of a foreign country. The Commission finds that the building and land had an equitable value of \$26,000.00 at the time of taking in 1951, and that claimant would have been entitled to an award of \$13,000.00 for the one-half interest therein she inherited from her mother in 1963 if this claim had been timely filed. Since the claim did not meet the filing deadline, however, the Commission is not authorized under Public Law 94-542 to grant an award. Therefore, the claim for the property Raabestrasse 11 in Berlin must be denied.


Part of this claim is based upon the loss of another piece of improved real property at Raabestrassse 12 in Berlin, which claimant asserts was also owned by Ella Bieber before World War II and originally lost during the Nazi era. No evidence has been submitted, however, of Ella Bieber's original ownership of this property. Thus, the record does not establish that claimant has any interest in a claim for the subsequent loss of this property due to an action by the German Democratic Republic. Therefore, even if this claim had been timely filed, the portion thereof based upon the loss of property at Raabestrassse 12 in Berlin would not be compensable.


For the above cited reasons, the entire 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.

JUL 16 1980


Richard W. Yarbrough, Chairman


Francis L. Jung, 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 of receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)

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

IN THE MATTER OF THE CLAIM OF

JOHANNA PLAUT

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0723

Decision No. G-2381 ✓

Counsel for Claimant:

Frederic Alberti, Esquire

PROPOSED DECISION

This claim in the amount of \$200,000.00 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 apartment buildings located at Schreckstrasse 16, Zwenkauer Strasse 23, and Delitzscher Strasse 47, all of which are located in Leipzig.

The record indicates that claimant became a United States citizen on November 9, 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. . ."

The record establishes that claimant was the owner before World War II of the subject property at Schreckstrasse 16 in Leipzig and that claimant's mother, Ida Loewenstein, was the owner before World War II of the subject properties at Zwenkauer Strasse 23 and at Delitzscher Strasse 47 in Leipzig. The evidence indicates that Ida Loewenstein, a German national, died during World War II and that the claimant herein was her only surviving heir.

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.

The Commission has also held in the Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G-1073, that decrees of September 6, 1951, effective in the German Democratic Republic, and December 18, 1951, effective in Berlin, which provided for taking over the administration of foreign owned property constituted a governmental program which terminated all rights of restitution of former persecutees or their heirs. The Commission found such a termination of rights to be a taking of the property interests of such persons; and, where the property interests were owned by United States nationals at the time of loss, the termination of rights would form the basis of a compensable claim. The Commission finds, therefore, that the claimant's beneficial interests in the subject properties were taken as of September 6, 1951.

In determining the value of the property interests involved herein, the Commission has considered the descriptions of the apartment houses in the Statement of Claim, purchase and sale prices during the 1930's, and a report from the Commission's field office in West Germany containing additional descriptions of the various properties. The record indicates that none of the buildings sustained significant war damage, but that the property at Delitzscher Strasse 47 was encumbered by mortgages totalling 50,000 reichsmarks. Based on all the evidence of record, the Commission determines that as of the date of taking in 1951 the property at Schreckstrasse 16 had a value of \$35,000.00, that the property at Zwenkauer Strasse 23 had a value of \$30,000.00, and that claimant's equitable interest in the property at Delitzscher Strasse 47 had a value of \$20,000.00. Claimant is therefore entitled to a total award of \$85,000.00 for the loss of the subject properties.

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

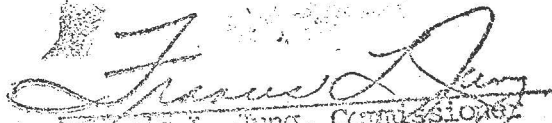
Claimant, JOHANNA PLAUT, is therefore entitled to an award in the amount of Eighty-Five Thousand Dollars (\$85,000.00), plus interest at the rate of 6% simple interest per annum from September 6, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

JUL 16 1980

This is a true and correct copy of the decision of the Commission which was entered as the final decision on AUG 20 1980


Richard W. Yarborough, Chairman


Francis L. Jung, 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.)