FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

ADAM OMYLANIUK

Claim No. PO-1266

Decision No. 85

Under the Polish Claims Agreement of 1960 and the International Claims Settlement Act of 1949, as amended

PROPOSED DECISION

This claim for $100.00 by ADAM OMYLANIUK is based upon an asserted ownership since 1939 of shares of stock of Stowarzyszenie Mechanikow Polskich z. Ameryki-Spolka Akcyjna-Warszawa (Association of Polish Mechanics of America). Claimant reports that he became a national of the United States on December 21, 1954.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended, (64 Stat. 13 (1950), 22 U.S.C. § 1623(a) (1958)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Polish Claims Agreement of 1960 (Agreement with the Government of the Polish People's Republic Regarding Claims of Nationals of the United States, July 16, 1960, 11 U.S.T. & O.I.A. 1953, T.I.A.S. No. 4545 /1960/). That agreement provides as follows:

> Claims to which reference is made in Article 1 and which are settled and discharged by this Agreement are claims of nationals of the United States for
>
> (a) the nationalization or other taking by Poland of property and of rights and interests in and with respect to property;
>
> (b) the appropriation or the loss of use or enjoyment of property under Polish laws, decrees or other measures limiting or restricting rights and interests in and with respect to property . . .; and

(c) debts owed by enterprises which have been nationalized or taken by Poland and debts which were a charge upon property which has been nationalized, appropriated or otherwise taken by Poland (Polish Claims Agreement of 1960, supra, Article II).

Annex A to the Agreement defines claims of nationals of the United States as rights and interests in and with respect to property nationalized, appropriated or otherwise taken by Poland which, from the date of nationalization, appropriation, or other taking to the date of entry into force of the Agreement (July 16, 1960), have been continuously owned by juridical persons (such as corporations) fulfilling certain requirements, or by natural persons who were nationals of the United States.

Thus where property was owned by a natural person at the time of its nationalization, appropriation, or other taking, a claim based upon such loss of property is not compensable under the Agreement unless such person was a national of the United States at the time of such nationalization, appropriation, or other taking, and also unless the claim was owned continuously thereafter until July 16, 1960 by a national or nationals of the United States.

For a definition of the term "nationals of the United States," we refer back to Section 2(c), Title I, of the International Claims Settlement Act of 1949, as amended, which provides that:

> The term "nationals of the United States" includes (1) persons who are citizens of the United States, and (2) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens.

In the Claim of Fajbus Zakrzewski, Claim No. PO-1695, this Commission held that one who had filed a declaration of intention to become a citizen of the United States, but had not yet been naturalized, was neither a citizen nor a "national of the United States" as that term is used in the Polish Claims Agreement of 1960 and Section 2(c) of the International Claims Settlement Act of 1949, as amended.

The Commission finds that the Association of Polish Mechanics of America was nationalized by the Government of Poland pursuant to Article 3 of the Law of January 3, 1946 relating to the taking of key branches of the national economy (Dz. U. 1946, No. 3, item 17). Under Article 3 of this law, provision was made for the nationalization of certain enterprises, effective on the date of publication by administrative officials of a notice of such nationalization. From the evidence presented to the Commission, it appears that a notice regarding the nationalization of the Association of Polish Mechanics of America was published in the Monitor Polski on September 5, 1947. The Commission, therefore, finds that claimant's interest in the Association was taken on that date.

Since claimant stated that he became a citizen of the United States on December 21, 1954, it appears that his stock interest in the Association was not owned by a national of the United States on September 5, 1947, the date of loss. The Commission, therefore, concludes that this claim is not within the scope of the Polish Agreement of 1960, and it is accordingly denied.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission
27 DEC 1962

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed upon the expiration of 60 days after service or receipt of notice of this Proposed Decision, and unless the Commission otherwise orders, this Proposed Decision will be entered as the Final Decision of the Commission. (FCSC Reg., 45 C.F.R. § 531.5(g)(1961)).