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

IN THE MATTER OF THE CLAIM OF

JULIUS JABLOW

Claim No. PO-1345

Decision No. PO-1983-A

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

Appeal and objections from an Amended Proposed Decision entered May 27, 1964. No oral hearing requested.

Hearing on the record held October 21, 1964.

FINAL DECISION

The Commission issued its Amended Proposed Decision in this matter on May 27, 1964 finding that claimant owned improved real property at No. 5 Holy Cross Street in Zambrow, taken by the Government of Poland on January 1, 1956, and proposing an award in the principal amount of $4,000.00 plus interest for the loss of the said property.

Full consideration having been given to the objections filed by the claimant, to the evidence submitted in support of the objections and to his request for additional time in order to present new evidence; and no such evidence having been presented within the extended period of time which expired on August 31, 1964, it is

ORDERED that the Amended Proposed Decision be and the same is hereby entered as the Final Decision in this claim.

Dated at Washington, D. C.
and entered as the Final Decision
of the Commission
NOV 4 1964

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

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

Appeal and objections from a Proposed Decision entered November 13, 1963. Oral hearing requested. Argument on January 28, 1964.

AMENDED PROPOSED DECISION

The Commission denied this claim for the reason that claimant had failed to submit persuasive evidence in support of his claim, and, particularly, evidence concerning the ownership of the property upon which the claim is based. Claimant filed objections, submitted new evidence at the hearing, and contended that there is sufficient material of record to warrant determination of the claim in his favor.

Full consideration having been given to the objections, the newly submitted evidence, and the argument presented at the hearing, it is

ORDERED that the Proposed Decision of November 13, 1963 be amended to read as follows:

This claim is based upon ownership and loss of improved real property (brick house, 2 wooden houses, garage, barn) and personal property (bakery, carding machinery and equipment) situated at Zambrow, Poland. Claimant JULIUS JABLOW has been a national of the United States since his naturalization on December 20, 1943.

Under the Polish Claims Agreement of 1960, claims by 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 . . . " are settled and discharged. (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), Article 2)

The Agreement further defines "claims of nationals of the United States" as including

> rights and interests in and with respect to property nationalized, appropriated or otherwise taken by Poland which, from the date of such nationalization, appropriation or other taking to . . . [July 16, 1960], have been continuously owned . . . (a) directly by natural persons who were nationals of the United States . . . (Polish Claims Agreement of 1960, supra, at Annex, Paragraph A. See also 14 FCSC Semiann. Rep. 186 (January - June 1961))

The Commission finds, on the basis of the Polish documentation and other evidence presented by the claimant, that prior to World War II claimant's father, Gerszon Jablonka, was the owner of real property situated at No. 5 Holy Cross Street in Zambrow, Poland, consisting of a house with two apartments and a store (bakery) and of an adjoining barn (shed); that during the war Gerszon Jablonka died leaving surviving, as sole heir, his son Julius Jablow, the claimant herein; that after the war in 1946 one Chaim Kac represented to the Polish authorities that he was entitled to the possession of the aforesaid property; that the Polish authorities transferred possession of the property to Kac who immediately thereafter sold his asserted interest therein to two individuals by the name of Lipski and Zareba.

The Commission further finds that claimant in 1946 made inquiries concerning the property through the American Embassy in Warsaw and was advised that the house had been sold by Chaim Kac who represented himself as a relative of Gerszon Jablonka.

Claimant also received a letter dated March 12, 1947 from the Clerk of the Town of Zambrow, one Antoni Komorowski, who stated that the sale by Kac cannot be considered as valid since the claimant appears to be the legal heir to the property. Mr. Komorowski indicated that action should be taken in order to restore the legal status in claimant's favor. However, no action was taken by the claimant at that time.

In view of the foregoing, the Commission finds that claimant, as sole heir of his father, Gerszon Jablonka, inherited the property in question; and that the subsequent transfer to and sale of the property by Chaim Kac, who evidently represented himself to be related to Gerszon Jablonka and thus entitled to the inheritance, were invalid. The Commission further finds that the subject property, in fact and in law, was abandoned property within the meaning and scope of Article 34 of the Polish Decree of March 8, 1946 (Dz. U. 1946, No. 13, it. 87) which provides for the taking of real property considered as abandoned on January 1, 1956.

Claimant has failed to submit convincing evidence with respect to the value of the property. Based upon the entire evidence of record including reports on the value of houses in cities of the size of Zambrow (pop. 10,000), the Commission finds that at the time of taking the house and barn (shed) had a value of $4,000.00 and that claimant is, accordingly, entitled to an award for this property in that amount.

The Commission has decided that in granting awards on claims under the Polish Claims Agreement of 1960, interest shall be allowed at the

rate of 6% per annum from the date of loss to July 16, 1960, the effective date of the Agreement. (See the Claim of John Hedio Proach, Claim No. PO-3197.) Accordingly, the amount of the award will be increased to that extent.

With respect to the claim for two additional houses, a garage and personal property (bakery, carding machinery and equipment) claimant has failed to establish that this additional property was formerly owned by his father or by other members of his family, that it was still in existence after the war, and that it was taken by the Government of Poland.

Accordingly, the claim for two wooden houses, a garage, and for personal property is denied.

A W A R D

An award is hereby made to JULIUS JABLOW in the principal amount of Four Thousand Dollars ($4,000.00) with interest thereon at 6% per annum from January 1, 1956, the date of loss, to July 16, 1960, the date of the Polish Claims Agreement, in the sum of One Thousand Ninety Dollars ($1,090.00).

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

MAY 27 1964

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections to this Amended Proposed Decision are filed within 20 days of service thereof, the decision will, upon the expiration of 60 days after such service or receipt of notice, be entered as the Final Decision of the Commission unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. § 531.5 (e) and (g) (1961)).

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

IN THE MATTER OF THE CLAIM OF

JULIUS JABLOW

Claim No. PO-1345

Decision No. PO- 1983

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

PROPOSED DECISION

This claim, for $30,000, is based upon the asserted ownership and loss of land, improvements and personal property located at Zambrow, Poland. Claimant states that he became a national of the United States on December 20, 1943.

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)

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) (1961))

Claimant contends that he inherited the property from his grandfather, Moszek Jablonka; his father, Gerszon Jablonka, and his uncle, Hil Blumenstein, respectively, but he failed to submit persuasive evidence in support of his contentions. To the contrary, the evidence submitted consisted, among other things, of a report from the Municipality of Zambrow, dated November 26, 1946, indicating that the property upon which the claim is based was sold in 1946 by one Chaim Kac, allegedly claimant's relative. At an interview held in New York City on March 18, 1963, claimant denied that Chaim Kac was his relative, and he also denied that Chaim Kac had any right to sell the property. The Commission conducted an independent investigation in Poland and ascertained that in 1946 Chaim Kac (Katz) sold the property to Lipski W. Ziemianowicz and to one Zareba, each having acquired a one-half interest in the property. The investigation further disclosed that the property was not taken or nationalized by the Government of Poland.

In view of the foregoing, the Commission finds that claimant has not met the burden of proof in that he has failed to establish his ownership in the property and that the property was nationalized, appropriated or otherwise taken by the Government of Poland.

Accordingly, the claim is denied.

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

NOV 13 1963

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections to this Proposed Decision are filed within 20 days of service thereof, the decision will, upon the expiration of 60 days after such service or receipt of notice, be entered as the Final Decision of the Commission unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. § 531.5(e) and (g) (1961))