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

IN THE MATTER OF THE CLAIM OF

BERNARD DWORETZKY

Claim No. PO-2320

Decision No. PO-3705

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

PROPOSED DECISION

This claim for $64,000 is based upon loss of (1) a house with furnishings, a paper and commercial stationary business, all located in Lida, "Poland"; (2) three life insurance policies bearing Nos. 384,241a/b, 384,304a/b, and 384,323a/b, issued by the Warsaw, Poland branch office of the Riunione Adriatica di Sicurtà; and (3) two bank accounts in former banks in Warsaw, Poland. Claimant, BERNARD DWORETZKY, has been a national of the United States since his naturalization on June 18, 1946.

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 2)

PROPERTY IN LIDA

If an award is to be made on a claim under the Agreement, the Commission must find that the claim comes within the purview of the above quoted Article. Hence, a claim may be compensable only if based upon a loss arising from the nationalization, appropriation, or other taking of property by the Government of Poland.

The Commission finds that Lida is situated in one of the former Polish Eastern Territories which was ceded to the U.S.S.R. by Poland on August 16, 1945. The Polish Government had no sovereignty or control over property in Lida since that date and, therefore, could not nationalize, appropriate or otherwise take property in Lida after that date. No evidence has been submitted to establish that the Government of Poland took the subject Lida property prior to August 16, 1945 (see Claim of Haim Slonimski, PO-5074). Accordingly, this portion of the claim must be and it is hereby denied.

LIFE INSURANCE POLICIES

The Commission finds, on the basis of evidence of record, that on February 12, 1934, the Riunione Adriatica di Sicurtà (an insurance company having a branch office in Warsaw, Poland) issued to claimant three life insurance policies. Taking into account the prepaid and other premiums as of November 30, 1938, these three policies had a gross paid up value of $1,296.25 plus 8,699 "gold" zlotys as of that

date. As the result of World War II, no further premiums were paid after that date, and the gross paid up values of the policies which claimant was entitled to receive were not restored to him.

Pursuant to Polish statutory provisions, the Riunione Adriatica di Sicurtà lost its license to carry on its insurance business in Poland and its insurance contracts in that country were ordered to be liquidated. (Decree of January 3, 1947; Dz. U. 1947, No. 5, it. 23.) Following such liquidation an attempt was made by the Government of Poland in 1959 to revalorize the amounts payable under life insurance policies in force on August 31, 1939. Such revalorization, however, did not provide for payment in United States dollars or the equivalent value of "gold" zlotys as provided in the policies.

In the meanwhile, by Decree of July 27, 1949 (Dz. U. 1949, No. 45, it. 332), the Government of Poland declared null and void all clauses in monetary obligations providing for a standard of value in "gold" zlotys or permitting payment in other currencies, and required that payment be made in ordinary zlotys which had depreciated drastically in value. The Commission finds that such Decree effected an annulment of claimant's right to receive payment in accordance with the terms of his policies, and that this constituted a taking of property within the meaning of Article 2 (a) of the Polish Claims Agreement of 1960 as of August 6, 1949, when that Decree became effective. (See the Claim of Sophia Predka, Claim No. PO-1178.)

In view of the safeguard that the policies provided against fluctuations of the zloty, the Commission is of the opinion that justice and equity can be best served in this case by granting compensation in the amount which he would be entitled to receive under the terms of the policies. The Commission finds that such amount is

$1,296.25 plus $1,641.32, representing the value of 8,699 "gold" zlotys, for a total of $2,937.57; and concludes that claimant is entitled to an award in that amount under the Polish Claims Agreement of 1960.

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.

BANK ACCOUNTS

Claimant asserts that he had on deposit 5,000 zlotys in two accounts in former Polish banks. No evidence has been submitted to establish this portion of the claim and it is, therefore, denied.

A W A R D

An award is hereby made to BERNARD DWORETZKY in the principal amount of Two Thousand Nine Hundred Thirty-seven Dollars and Fifty-seven Cents ($2,937.57), with interest thereon at 6% per annum from August 6, 1949 to July 16, 1960, the date of the Polish Claims Agreement in the sum of One Thousand Nine Hundred Twenty-nine Dollars and One Cent ($1,929.01).

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

JUN 24 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 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)).