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

IN THE MATTER OF THE CLAIM OF

CHARLES GUNTHER RUTKOWSKI

Claim No. PO-4189

Decision No. PO- 2873

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

PROPOSED DECISION

This claim, for $21,368.16, is based upon the asserted ownership and loss of the improved real property at 10 Traugutta Street in Kozuchow, powiat Nowa Sol, Poland, and household furnishings. Claimant, CHARLES GUNTHER RUTKOWSKI, has been a national of the United States since his naturalization on December 19, 1940.

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 II)

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 (Jan.-June 1961))

The Commission finds on the basis of official Polish documentation, that claimant owned the improved real property at 10 Traugutta Street in Kozuchow, powiat Nowa Sol, Poland. The Commission further finds on the basis of the Polish laws and decrees controlling rental property that claimant lost the use and enjoyment of his property within the meaning of Article 2(b) of the Polish Claims Agreement of 1960, on the effective date of the Law of January 30, 1959 (Dz. U. 1959, No. 10, it. 59); i.e., on February 12, 1959. (See the Claim of Jan Glowacki, Claim No. PO-3455.)

In arriving at the value of the property, the Commission has considered claimant's evaluation, the submitted photographs, and the last will of claimant's parents describing and appraising the property, consisting of a lot, improved by a two story brick building of approximately 12 rooms, about 100 years old. On the basis of all evidence of record, including evidence of values of simlar properties in Poland, the Commission finds that the value of claimant's property was $8,000.00 at the time of loss; and concludes that claimant is entitled, under the Polish Claims Agreement of 1960, to an award in that amount.

A further portion of the claim is based upon the asserted ownership and loss of household furnishings, situated at 10 Traugutta Street in Kozuchow. Evidence of record indicates such personalty was looted by military personnel of the U.S.S.R. in 1945; and there is no evidence to show that any portion of such personalty was taken by the Government of Poland.

The Polish Claims Agreement of 1960 provides for the payment of compensation for property which was nationalized, appropriated or otherwise taken by the Government of Poland. It does not settle or discharge claims based upon damage to or destruction of property during World War II, or the taking of property by forces occupying Poland during the war. (See the Claim of Dominick W. Przybylinski, Claim No. PO-1358.) Accordingly, the portion of the claim based upon household furnishings is denied.

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.

A W A R D

An award is hereby made to CHARLES GUNTHER RUTKOWSKI in the principal amount of Eight Thousand Dollars ($8,000.00), with interest thereon at 6% per annum from February 12, 1959, to July 16, 1960, the date of the Polish Claims Agreement, in the sum of Six Hundred Eighty-five Dollars and Thirty-six Cents ($685.36).

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

MAR 18 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))