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

IN THE MATTER OF THE CLAIM OF

IRVIN I. BERWALD

Claim No. PO-4248

Decision No. PO- 3535

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

PROPOSED DECISION

This claim, for $41,000.00, is based upon the asserted ownership and loss of improved real property and personal property located in Raczki, County Suwalki, voivodeship Bialystok, Poland. Claimant, IRVIN I. BERWALD, has been a national of the United States since his naturalization on October 1, 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 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 its independent investigation, that claimant was the owner of the improved real property located in the market place of the town of Raczki, and that this real property was within the purview of the Law of March 12, 1958 (Dz. U. 1958, No. 17,

it. 71) relating to the sale of State owned farm land and concerning the regulation of certain matters connected with the implementation of the Agrarian Reform and farm settlements. In the absence of evidence to the contrary the Commission finds that the real property was taken on April 5, 1958, the effective date of the Law.

Claimant has submitted no evidence in support of the alleged value of the real property. The Commission has conducted an independent investigation of the value and finds that, at the time of loss, this real property had a value of $1,450.00 and concludes that claimant, as the sole surviving heir of his late father, the record owner, is entitled, under the Polish Claims Agreement of 1960, to an award in that amount.

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))

Claim has also been made for the ownership and loss of personal property. Claimant has submitted no evidence to establish his ownership of personal property and its taking by the Government of Poland. The Commission finds, therefore, that claimant has not met the burden of proof with regard to this portion of the claim in that he has failed to establish his ownership of rights and interests in property which was nationalized, appropriated or otherwise taken by the Government of Poland. Accordingly, the portion of the claim based upon personal property 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 IRVIN I. BERWALD in the principal amount of One Thousand Four Hundred Fifty Dollars ($1,450.00) with interest thereon at 6% per annum from April 5, 1958 to July 16, 1960, the date of the Polish Claims Agreement, in the sum of One Hundred Ninety-eight Dollars and Forty Cents ($198.40).

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

JUN 3 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))