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

IN THE MATTER OF THE CLAIM OF

DALE ALWIN

Claim No. PO-5489

Decision No. PO-966

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 May 23, 1963; no hearing requested.

Hearing on the record held July 31, 1963.

FINAL DECISION

Full consideration having been given to the objections of the claimant, and general notice of the Proposed Decision having been given by posting for sixty days, it is

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

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

4 SEP 1963

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

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PROPOSED DECISION

This claim, for $36,000, is based upon the asserted ownership and loss of a 30% ownership interest in an apartment building at 62 Targowa Street, Warsaw, Poland. Claimant, DALE ALWIN (David Altminc), states that he became a national of the United States on November 21, 1952.

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)).

The Agreement 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))

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 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.

The Commission finds, on the basis of official Polish documentation, that the property at 62 Targowa Street, Warsaw, was nationalized or otherwise taken on October 19, 1948 by the Government of Poland pursuant to the Decree of October 26, 1945 (Dz. U. 1945, No. 50, it. 279).

As the claimant was not a national of the United States when the property was taken by the Government of Poland on October 19, 1948, this claim is not one by a national of the United States as defined in Annex A to the Polish Claims Agreement of 1960; therefore, it must be and hereby is denied.

It is unnecessary to make determinations as to other aspects of the claim.

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

23 MAY 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)).