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

IN THE MATTER OF THE CLAIM OF

THADDEUS Z. ORSKI PRZEWORSKI

Claim No. PO-5843

Decision No. PO- 8665

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

Counsel for Claimant: Samuel Herman, Esquire

PROPOSED DECISION

This claim for $696,511.00 is based upon the asserted ownership and loss of certain interests in real property in Warsaw, and shares of stock in Polish industrial corporations. Claimant, THADDEUS ZDZISLAW ORSKI PRZEWORSKI has been a national of the United States since his naturalization on November 7, 1946.

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 documentation of record and as a result of its independent investigation in Poland, the following:

Real Property in Warsaw

(1) Claimant was the owner of a 1/30 interest in real property registered under hip. No. 634-A (new KW No. 890) of the ground books of Warsaw, consisting of a land parcel measuring 1,270 square meters, situated at Nos. 1-3 Foch Street in Warsaw. An apartment house standing on the land was completely destroyed during World War II. The record shows that this land was taken by the Government of Poland on August 22, 1950 pursuant to a decision of the Presidium of the Warsaw People's Council No. LPB/5847/50/u.

(2) Claimant was the owner of an 8/96 (or 1/12) interest in real property registered under hip. No. 1726-P of the ground books of Warsaw, consisting of a land parcel measuring 5,830 square lokci (or 1,943 square meters) situated at No. 22 (now No. 9) Aleje Ujazdowskie in Warsaw, improved with an apartment house and an auxiliary building (garage). The apartment house was partly damaged during the war. Claimant's mother, Rozalia Przeworska nee Kon was the owner of a 12/96 (or 1/8) share in the aforesaid property. Rozalia Przeworska died intestate on April 12, 1945, leaving as survivors three children including the claimant herein. The Commission, therefore, concludes that claimant inherited a 1/3 interest in his mother's share, or a 1/24 interest in the entire property, thus acquiring a total of a 1/8 (1/12 + 1/24) interest therein. The record shows that this property was taken on March 30, 1950 pursuant to an administrative decision of the Presidium of Warsaw No. PP/2322/50 U.

In arriving at the value of the above-described two property items, the Commission has considered claimant's description thereof, reports of the on-the-spot investigators including photographs taken of the building on Aleje Ujazdowskie, and reports of value of land and buildings in the

center of the city of Warsaw, where the property is situated, and finds that at the time of taking the value of the property was as follows:

(1)	No. 1 - 3 Foch Street building site $72,000 of which claimant's 1/30 interest was	$ 2,400.00
(2)	No. 9 Aleje Ujazdowskie property (not including war damage) $300,000 in which claimant's 1/8 interest amounted to	$ 37,500.00
	Total	$ 39,900.00

Shares of Stock

(a) Spolka Akcyjna Fabryki Cukru i Rafinerji JOZEFOW
(Sugar Mill and Refinery JOZEFOW, Inc.)

The record shows that on September 5, 1939 claimant deposited with the Board of Directors of the Sugar Mill and Refinery JOZEFOW, Inc. (hereinafter referred to as "Jozefow") at their executive offices at No. 15 Trebacka Street in Warsaw, certificates representing 1163 shares of stock of that company, of which 3/6 were the property of claimant's mother Roza (Rozalija) Przeworska, and 1/6 claimant's own property. The record further shows that on September 7, 1939 claimant and his wife, Irena Przeworska, jointly deposited additional certificates representing 51 shares of "Jozefow" with the same Board of Directors at the same place in Warsaw.

Evidence presented to the Commission shows that during the siege of Warsaw in the second half of September, 1939, the building at No. 15 Trebacka Street was bombed, burned and totally destroyed. After the occupation of Warsaw by Germany, examination was made of the premises and after forcible opening of the remains of the safe of the "Jozefow" company and of affiliated enterprises which contained the aforesaid certificates, the contents were found to be destroyed beyond salvage.

As stated above, Roza Przeworska died intestate and claimant inherited a 1/3 interest in her shares of stock. The Commission, therefore, concludes

that claimant was the owner of a 1/6 interest in 1163 shares inherited from his mother, of a 1/6 interest which was his property in his own right, and of a 1/2 interest in 51 shares he owned jointly with his wife. He thus owned a total of 413-1/6 shares in the capital stock of "Jozefow".

The record shows that "Jozefow" was nationalized by the Government of Poland pursuant to a decision of the Ministry of Industry and Commerce of June 17, 1947 published in the Official Gazette No. 90 of June 30, 1947 (M.P. 1947, No. 90, it. 608). The Commission, therefore, finds that "Jozefow" was nationalized on June 30, 1947.

In arriving at the value of the shares, the Commission has considered the balance sheet and profit and loss statements for the year 1937/38, the sworn statement of Wladyslaw Goralik, former manager of "Jozefow", and other material of record.

The Commission finds that the prewar fixed assets of "Jozefow" consisted of land of an area of approximately 300 hectares, of factory and dwelling buildings, of a building in Warsaw at No. 10 Krolewska Street, and of a city lot at Aleje Jerozolimska near the city limits of Warsaw. The record shows that the building at No. 10 Krolewska Street was totally destroyed during the war, and that some equipment and transportation facilities were lost as a result of the occupation of Poland by Germany. The record further shows that the factory equipment was to a great extent obsolete and that almost 70% thereof had been written off as a result of depreciation before the war. "Jozefow" also owned approximately 60% of the shares of stock of the Sugar Mill and Refinery "Michalow", and 100% of the shares of stock of the Sugar Mill and Refinery "Mlynow". "Mlynow" was the owner of 600 hectares of land, but the evidence indicates that the factory had been inactive since before the war. The evidence discloses that the fixed assets of the factories "Michalow" and "Mlynow" did not sustain any major war damage.

Based upon all information available, the Commission finds that the net worth of "Jozefow", after deduction of war damage and after allowance of depreciation for the assets of "Jozefow" including the affiliated companies "Michalow" and "Mlynow", was $999,000, and that each of the outstanding 5,400 shares of stock was worth $185.00.

Claimant's interest represented by 413-1/6 shares of "Jozefow" at the time of nationalization was consequently equivalent to $76,436.00.

(b) Spolka Akcyjna Cukrowni i Rafinerji "Goslawice"
(Sugar Mill and Refinery "Goslawice", Inc.)

The record shows that on August 12, 1939 and September 6, 1939, respectively, claimant deposited with the Board of Directors of the Sugar Mill and Refinery "Goslawice", Inc. (hereinafter referred to as "Goslawice") at their executive offices at No. 15 Trebacka Street in Warsaw certificates representing 377 and 8350 shares of stock of that company, or a total of 8,727 shares, of which 3/6 were the property of Roza (Rozalija) Przeworska, claimant's mother, and 1/6 claimant's own property.

As stated above under (a), all these certificates were destroyed in September, 1939 and claimant, upon the death of his mother, inherited a 1/6 interest in his mother's shares. He thus owned 2,909 shares in the capital stock of "Goslawice".

The record shows that "Goslawice" was nationalized under the same decree and at the same time as "Jozefow" (supra), i.e. on June 30, 1947.

In adopting the criteria for the evaluation of the shares of stock of "Goslawice" which were outlined above with respect to the shares of stock of "Jozefow", and considering that "Goslawice" sustained practically no damage during the war, the Commission finds that the net worth of "Goslawice" at the time of nationalization was worth $658,440 and that each of the outstanding 40,800 shares had a value of $16.80. Consequently, claimant's interest represented by 2,909 shares of "Goslawice" is equivalent to $48,871.00.

(c) Spolka Akcyjna Cukrowni i Rafinerji "Wielun"
(Sugar Mill and Refinery "Wielun", Inc.)

The record shows that on September 5, 1939 claimant deposited with the Board of Directors of the Sugar Mill and Refinery "Wielun", Inc. (hereinafter referred to as "Wielun") at their executive offices at No. 15 Trebacka Street in Warsaw, certificates representing 2,800 shares of stock of which 3/6 were the property of claimant's mother, Roza (Rozalija) Przeworska, and 1/6 was claimant's own property. The record further shows that on September 7, 1939, claimant and his wife, Irena Przeworska, jointly deposited certificates representing an additional 627 shares of stock of "Wielun" with the Board of Directors of the company at the same place.

As stated above under (a), all these certificates were destroyed in September, 1939 and claimant, upon the death of his mother, inherited a 1/6 interest in the 2,800 shares of stock. The claimant, therefore, owned a 1/6 interest in 2,800 and a 1/2 interest in 627 shares in his own right, and a 1/6 interest in 2,800 shares by inheritance. He thus owned a total of 1,246-5/6 shares of stock of "Wielun".

The record shows that "Wielun" was nationalized under the same decree and at the same time as "Jozefow" (supra), i.e., on June 30, 1947.

In adopting the same criteria for the evaluation of the shares of stock of "Wielun" which were outlined concerning the shares of stock of "Jozefow" and "Goslawice", and considering that "Wielun" sustained practically no war damage, the Commission finds that the net worth of "Wielun" at the time of nationalization was $444,990 and that each of the outstanding 18,200 shares had a value of $24.45. Consequently, claimant's interest represented by 1,246-5/6 shares of "Wielun" is equivalent to $30,485.00.

(d) Zjednoczone Zaklady Wapienne "Wapnorud" w Rudnikach, Sp. Akc.
(United Limestone Quarries "Wapnorud" in Rudnik, Inc.)

The record shows that on February 15, 1939 claimant deposited with the Board of Directors of the United Limestone Quarries "Wapnorud", Inc. in Warsaw (hereinafter referred to as "Wapnorud") at their executive offices at No. 15 Trebacka Street in Warsaw, certificates representing 1,090 shares of stock of "Wapnorud", of which 3/6 were the property of Roza (Rozalija) Przeworska, and 1/6 the property of the claimant.

As stated above under (a), all these certificates were destroyed in September, 1939 and claimant, upon the death of his mother, inherited a 1/6 interest in the 1,090 shares of stock. He thus owned 363-1/3 shares of stock of "Wapnorud".

The record shows that "Wapnorud" was nationalized by the Government of Poland on April 30, 1948 by a decree of the Ministry of Industry and Commerce of February 12, 1948 published in the Official Gazette of April 30, 1948 (M.P. 1948, No. 44, it. 222).

Claimant has failed to establish that any of the buildings, equipment and other material of "Wapnorud" survived the war and was taken by the Government of Poland. In the absence of such evidence, the Commission confines its valuation of the assets of "Wapnorud" to the land and limestone deposits and finds that these assets, at the time of taking, were worth $130,200. Each of the outstanding 16,800 shares of stock had, therefore, the value of $7.75, and claimant's interest represented by 363-1/3 shares is equivalent to $2,816.00.

(e) Przedalnia Welny Czesankowej Markus Kohn w Lodzi, Sp. Akc.
(Worsted Weaving Mill Markus Kohn in Lodz, Inc.)

Claimant states that he was the owner of certificates representing 544 shares of stock of the Worsted Weaving Mill Markus Kohn in Lodz, Inc. (hereinafter referred to as "Markus Kohn"). He further states that the

certificates of "Markus Kohn" were deposited at approximately the same time and at the same place as the certificates referred to above under (a) through (d), and that they were destroyed in September, 1939 when the building at No. 15 Trebacka Street in Warsaw burned and collapsed.

In support of his statements, claimant submitted affidavits of Kasimir Markon, the former President of "Markus Kohn", of Halina Czerewska, a former employee in claimant's Warsaw office, and of his wife, Irena M. Orski-Przeworski. The affiants state that claimant was the owner of the 544 certificates of shares of stock and that such certificates were destroyed in Warsaw in 1939.

The Commission has given careful consideration to this matter and finds that the evidence of ownership is based mainly on the affidavit of Kasimir Markon, who states, "To the best of my knowledge, Mr. Thaddeus Z. Orski owned, at the outbreak of the war, 544 common bearer shares in the said Polish company and so far as I am aware he has not disposed of these shares since that time." The Commission has not overlooked the fact that claimant stated that he inherited 136 shares from his maternal grandfather, Markus Kohn, in 1921 and that he bought 374 shares between 1935 and 1939. However, the Commission finds that there is not only some inconsistency in the figures, since 34 shares remain unaccounted for, but also in the fact that claimant's mother, Roza, the daughter of Markus Kohn, was alive in 1921 at the time of the death of her father and, according to the statements, apparently inherited nothing. In view of the close family relationship between the claimant and the majority shareholders of "Markus Kohn", the Commission holds that facts relating to inheritance of major portions of stock and to transactions of the type referred to as a purchase of stock between 1935 and 1939 should be supported by stronger evidence that by self-serving affidavits.

The Commission finds that claimant has failed to meet the burden of proof in that he has not established that he was the owner of 544 certificates of shares of stock of "Markus Kohn" and this portion of the claim is, therefore, denied.

Summarizing, claimant is entitled under the Polish Claims Agreement of 1960 to compensation, as follows:

(1)	For real property in Warsaw		$ 39,900
(2)	a.	Shares of stock "Jozefow"	76,436
	b.	Shares of stock "Goslawice"	48,871
	c.	Shares of stock "Wielun"	30,485
	d.	Shares of stock "Wapnorud"	2,816
			$ 198,508

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.) The portion of the claim relating to property damaged as a result of war activities is hereby 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 THADDEUS Z. ORSKI PRZEWORSKI in the principal amount of One Hundred Ninety-eight Thousand Five Hundred Eight Dollars ($198,508.00) with interest thereon at the rate of 6% per annum from the respective dates of taking to July 16, 1960, the date of the Polish Claims Agreement, in the sum of One Hundred Forty-eight Thousand Five Hundred Eighty-five Dollars and Fifteen Cents ($148,585.15).

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

SEP 8 1965

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 30 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) (1964))