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

IN THE MATTER OF THE CLAIM OF

HELEN STADLER, MICHAEL DZIUBAK, PETER JUBACK, JOHN DZUBAK and MARYANNA DZIUBAK

Claim No. PO-6767

Decision No. 1642

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

## PROPOSED DECISION

This claim, for $17,000, is based upon the asserted ownership and loss of farmland and buildings in Regetow, Gorlice, Rzeszow, Poland. Claimants HELEN STADLER, MICHAEL DZIUBAK, PETER JUBACK and JOHN DZUBAK are native-born citizens of the United States. Claimant MARYANNA DZIUBAK is not a national of the United States.

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 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 MARYANNA DZIUBAK and her husband DANKO DZIUBAK each owned an undivided one-half interest in 8.7938 hectares of land improved by a house and stable, in Regetow, Gorlice, Rzeszow, Poland; and that the property was taken by the Government of Poland pursuant to the Decree of July 27, 1949. (Decree of July 27, 1949 on the taking into the ownership of the State of real properties, not in actual management of their owners, and situated in certain counties of the Bialystok, Lublin, Rzeszow, and Krakow voivodeships (Dz. U. 1949, No. 46, it. 339)).

Under the terms of that decree, however, property is taken on the effective date of a subsequent decision of the Presidium of the County National Council affecting that property. From the evidence presented to the Commission, it appears that the decision of the Presidium affecting the property involved herein was effective December 2, 1954. The Commission finds, therefore, that the property was taken on that date.

Danko Dziubak was naturalized as a citizen of the United States on December 27, 1943, and died intestate in New York on April 21, 1956, leaving him surviving his aforenamed spouse and four children, claimants. Accordingly, each child has a one-twelfth interest in the claim arising from the taking of the property, and MARYANNA DZIUBAK

has a two-thirds interest in the claim arising from the taking of the property. However, inasmuch as said two-thirds interest has not been owned continuously by a United States national or nationals from the time it arose to July 16, 1960, and therefore is not a claim of a national of the United States within the meaning of the Agreement, it is not a claim settled and discharged by the Agreement. Accordingly, the claim of MARYANNA DZIUBAK must be and hereby is denied.

In arriving at the value of this property, the Commission has considered the area of the land and the description of the farmhouse and stable. Claimants have submitted no evidence with regard to the value of the real property at the time it was taken. However, the Commission has conducted an independent investigation into methods of evaluating agricultural property in Poland. On the basis of all the information available to the Commission, including the average values published in 1956 by the Praesident des Bundesausgleichsamtes, Bad Homburg (Verzeichnis der Gemeinde-Hektarsatze mit alphabetischem Kreisverzeichnis der Vertreibungsgebiete), used in administering the German Equalization of Burdens Law, and the average values published by the Kommission fur Nationalisierungsentschadigungen, the Swiss National Claims Commission, used in determining claims of Swiss nationals against the Government of Poland, and in the absence of other evidence as to the value of particular property, the Commission finds that the average value of farm land in the vicinity of Regetow, Gorlice, Rzeszow, Poland, was $291.75 per hectare; that the average value of a farmhouse and stable in the same vicinity was $1,300. Accordingly, the Commission finds that the value of this property, measuring 8.7938 hectares of land with a farmhouse and stable, at the time of its taking was $3,865.59; and concludes that claimants HELEN STADLER, MICHAEL DZIUBAK, PETER JUBACK and JOHN DZUBAK are entitled, under the

Polish Claims Agreement of 1960, to compensation for their respective interests therein.

The Commission has determined with respect to any claim which, at the time of award, is vested in persons other than the person by whom the loss was sustained, that the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, indicating the respective interests of such claimants therein, and all such claimants shall participate in payments, in proportion to their indicated interests, in all respects as if an award had been in favor of a single person.

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.

Accordingly, the Commission concludes that claimants HELEN STADLER, MICHAEL DZIUBAK, PETER JUBACK and JOHN DZUBAK are entitled to a consolidated award as follows:

## A W A R D

A consolidated award is hereby made in the principal amount of One Thousand Two Hundred Eighty-Eight Dollars and Fifty-Two Cents ($1,288.52), with interest thereon at 6% per annum from December 2, 1954 to July 16, 1960, the date of the Polish Claims Agreement, in

the sum of Four Hundred Thirty-Four Dollars and Sixty-Four Cents ($434.64), in which the interests of claimants are as follows:

| | Principal | Interest |
|---|---|---|
| HELEN STADLER | $322.13 | $108.66 |
| MICHAEL DZIUBAK | 322.13 | 108.66 |
| PETER JUBACK | 322.13 | 108.66 |
| JOHN DZUBAK | 322.13 | 108.66 |

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

OCT 2 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)).

PO-6767