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

IN THE MATTER OF THE CLAIM OF

JOSEPH FRUMKIN

Claim No. PO-7821

Decision No. PO- 2965

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

PROPOSED DECISION

This claim, for $60,500, is based upon the asserted ownership and loss of real property in Miedzyborow, Grodzisk Mazowiecki, Warsaw, improved real property in the City of Warsaw, Poland, as well as shares of stock, debt of a nationalized enterprise and bank accounts. Claimant, JOSEPH FRUMKIN, has been a national of the United States since his naturalization on May 20, 1944.

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 certain lots situate in Miedzyborow, Grodzisk Mazowiecki, Warsaw; and this property was taken by the Government of Poland on January 1, 1956 pursuant to the provisions of Article 34 of the Decree of March 8, 1946 (Dz. U. 1946, No. 13, it. 87).

The Commission further finds, on the basis of official Polish documentation, that claimant was the owner of a 1/6 interest in an apartment house at the intersection of Marzalkowski, Koszakowa and Sniadeckich Streets, in the City of Warsaw which was partially destroyed during World War II; and that the land and the remainder of the building was taken by the Government of Poland on November 21, 1945 pursuant to the provisions of the Decree of October 26, 1945 (Dz. U. 1945, No. 50, it. 279), effective November 21, 1945.

In arriving at the value of these properties, the Commission has considered the claimant's evaluation of the land in Miedzyborow at $15,000 and of the City of Warsaw apartment building at $25,000, evidence that the apartment building suffered war damage to the extent of 25%; evidence that the Miedzyborow lots contained a total of 31,390 square meters, and that the City of Warsaw building site was an area of 355.8 square sazen (equivalent to about 1,062 square meters); a photograph showing a portion of a 5-floor building, prior to war damage; as well as evidence of record with the Commission as to values of similar properties in Poland. On the basis of the entire record, the Commission finds that at the time of taking by the Government of Poland the value of claimant's property in Miedzyborow was $5,920; and that the value of his 1/6 interest in the property in the City of Warsaw, was $11,470 - a total of $17,390; and concludes that claimant is entitled, under the Polish Claims Agreement of 1960, to an award in that amount.

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, so much of the claim as may be based on damage to the apartment building in Warsaw, occasioned during the war, is denied.

Claimant has also alleged a loss of shares of stock, a debt owed by an agricultural enterprise, and bank accounts. However, no evidence has been submitted to establish a claim based on such items, and claimant in his letter of February 27, 1962, and at a conference held in New York on March 28, 1963, indicated his acquiescence in the advice of his Polish re-resentative that a continued search for evidence on these items would be unavailing.

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))

The Commission finds that claimant has not met his burden of proof insofar as his claim for shares of stock, debt and bank accounts is concerned. Accordingly, the claim in this respect is also 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.

An award is hereby made to JOSEPH FRUMKIN in the principal amount of Seventeen Thousand Three Hundred Ninety Dollars ($17,390) with interest thereon at 6% per annum from the respective dates of taking, to July 16, 1960, the date of the Polish Claims Agreement, in the total amount of Eleven Thousand Six Hundred Ninety-seven Dollars and Twenty-eight Cents ($11,697.28).

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

MAR 25 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))