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

IN THE MATTER OF THE CLAIM OF

KIWA HERSZBERG

Claim No. PO-9080

Decision No. PO-3758

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 June 24, 1964; no oral hearing requested.

Hearing on the record held on August 5, 1964.

FINAL DECISION

Full consideration having been given to the objections, 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

AUG 27 1964

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

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GPO 908483

PROPOSED DECISION

This claim, for $18,000, is based upon the asserted ownership and loss of buildings, land and personal property located in Warta, County of Sieradz, Voivodeship of Lodz, Poland. Claimant, KIWA HERZBERG, states that he has been a national of the United States since his naturalization on November 11, 1954.

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 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))

Claimant has submitted no evidence in support of his claim, although in a letter dated September 27, 1962, suggestions were made to him regarding the type of evidence appropriate for submission and the sources from which it might be obtained.

On June 27, 1963, a letter was mailed to claimant at his address as supplied in his statement of claim. This letter was returned by the Knickerbocker Station Post Office in New York, bearing the notation "return to sender, unknown." By letter dated March 10, 1964, the Commission attempted, without success, to obtain claimant's present address from the Postmaster, Knickerbocker Station.

The Commission finds that claimant has not met the burden of proof, 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 claim is denied.

A copy of this Proposed Decision will be mailed to claimant

at his last known address and such mailing shall constitute service of the Proposed Decision in accordance with Section 501 of the Commission's Regulations.

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

JUN 24 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))