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

IN THE MATTER OF THE CLAIM OF

HELENA WEXLER

Claim No. PO-10131

Decision No. PO-8736

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

Counsel for Claimant: Bernard Indelman, Esquire

Appeal and objections from a Proposed Decision entered September 22, 1965.

Oral Hearing requested and held on November 16, 1965.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on September 22, 1965 granting claimant an award in the principal amount of $7,425.00 for the loss of her interest in 450 shares of stock of "Warta", a textile manufacturing company in Czestochowa, Poland.

Claimant filed objections with respect to the findings of value of the shares of stock of the "Warta" corporation. In his objections, claimant's counsel stated that the value of $16.50 for each share of stock, as determined by the Commission, is too low. Claimant's counsel introduced at the hearing held on November 16, 1965, the testimony of Roman B. Birchwood, the former manager of "Warta", who testified, among other things, that in 1939 the fixed assets of "Warta" had a minimun value of 7,500,00 prewar zlotys, or approximately $1,500,000; that the factory employed several thousand workers and employees; and that the plant, according to information obtained from persons who visited the factory after the war, sustained no war damage. Claimant's counsel introduced also testimony of Stefan Grapnel, a major shareholder of the company, who testified that "Warta" was the second largest flax manufac-

turing plant in Poland and that he was in Poland after the war and obtained the information that the plant was not damaged and that it was in full operation since 1945. Claimant's counsel then presented argument in support of the objections.

Full consideration having been given to the objections, the testimony at the hearing, and to the argument presented by claimant's counsel, the Commission now finds that allowing for depreciation of the fixed assets, the net worth of the company at the time of nationalization in 1947 was $861,800 or $78.35 per share, and that claimant is entitled, under the Polish Claims Agreement of 1960, to compensation for the loss of her interest in 450 shares of stock in the principal amount of $35,257.50.

In view of the foregoing, it is

ORDERED that the Proposed Decision be modified in accordance with the above findings, and as modified, entered as the Final Decision in this claim; and it is further

ORDERED that the award hereinafter granted be certified for payment to the Secretary of the Treasury.

In all other respects the Proposed Decision is affirmed.

A W A R D

An award is hereby made to HELENA WEXLER in the principal amount of Thirty-Five Thousand Two Hundred Fifty-Seven Dollars and Fifty Cents ($35,257.50) with interest thereon at the rate of 6% per annum from July 14, 1947, the date of taking, to July 16, 1960, the date of the Polish Claims Agreement, in the sum of Twenty-Seven Thousand Five Hundred Seventy-One Dollars and Thirty-Seven Cents ($27,571.37).

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

JAN 26 1966

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

PO-10131

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PROPOSED DECISION

This claim, for $104,880.00, is based upon the asserted ownership and loss of shares of stock of a Polish industrial corporation. Claimant, HELENA WEXLER, has been a national of the United States since her naturalization on June 2, 1947.

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 taken by Poland. (Polish Claims Agreement of 1960, supra, 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 (Jan.-June 1961))

The Commission finds, on the basis of the documentation of record, that on October 23, 1939, there were deposited with the Bank Przemyslowocow Lodzickich in Lodz, certificates for 450 shares of stock, numbered 7101 through 7550, of "Spolka Akcyjna Przedalnia i Tkalnia Juty i Lnu WARTA" (Jute and Flax Weaving and Spinning Mfg. Company). The Commission further finds that on May 2, 1951, at the request of the claimant (pursuant to the Decree of February 3, 1947 relating to the registration and cancellation of certain bearer papers issued prior to September 1, 1939 (Dz. U. 1947, No. 22, it. 88)), the Municipal Court in Warsaw by decision No. VII-1308/49 declared these certificates as lost and cancelled in favor of the claimant. On the basis of the record, the Commission concludes that claimant was the owner of the 450 aforesaid shares of stock since before the war.

The record shows that "Spolka Akcyjna Przedalnia i Tkalnia Juty i Lnu WARTA" was nationalized by the Government of Poland on July 4, 1947 pursuant to an announcement of the Polish Ministry of Industry and Commerce, published in the Monitor Polski of that date (M.P. 1947, No. 93, it. 618).

The Commission has established that the value of a share of stock of the textile manufacturing plant "Spolka Akcyjna Przedalnia i Tkalnia Juty i Lnu WARTA" at the time of nationalization was $16.50 per share. (See Claim of Stefan Grapnel, Claim No. PO-7169.)

In view of the foregoing, the Commission finds claimant is entitled, under the Polish Claims Agreement of 1960, to compensation in the principal amount of $7,425.00.

A portion of the claim is asserted for additional six (6) shares of stock of the same company, which are not included in the decree of the Municipal Court of Warsaw of May 2, 1951, and since claimant's ownership of these six additional certificates is not substantiated by other convincing evidence, this portion of the claim must be and 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 HELENA WEXLER in the principal amount of Seven Thousand Four Hundred Twenty-Five Dollars ($7,425.00), with interest thereon at 6% per annum from July 4, 1947 to July 16, 1960, the date of the Polish Claims Agreement, in the sum of Five Thousand Eight Hundred Six Dollars and Thirty-Five Cents ($5,806.35).

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

SEP 22 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)).

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