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

IN THE MATTER OF THE CLAIM OF

MICHAEL SHAW

Claim No. PO-10824

Decision No. PO-946

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

Counsel for Claimant: Basil W. Kacedan, Esq.

Appeal and objections from a Proposed Decision entered April 24, 1963; oral hearing requested.

Oral argument June 20, 1963 by Basil W. Kacedan, Esq., for claimant.

FINAL DECISION

This claim, for $4,000.00, is based upon the asserted ownership and loss of 4,614 square meters of farmland in Losie, county Gorlice, voivodeship Rzeszow, Poland. Claimant, MICHAEL SHAW, has been a national of the United States since his naturalization on October 2, 1923.

By Proposed Decision dated April 24, 1963, the Commission awarded the claimant the principal amount of One Hundred Thirty-six Dollars and Eleven Cents ($136.11), with interest in the sum of One Hundred Five Dollars and Fourteen Cents ($105.14).

Claimant objected to the Proposed Decision of the Commission only upon the issue of the value of the property at the time it was taken.

An oral hearing on this matter was held on June 20, 1963, at which claimant, through his attorney, submitted a brief and presented oral argument concerning the value of claimant's property. Claimant was granted leave of thirty (30) days in which to submit additional

documentation in support of the claim. On July 12, 1963, an affidavit was submitted to the Commission describing the location, nature and quality of the property.

After full and careful consideration of the evidence submitted at the oral hearing and subsequent thereto, the Commission finds that the claimant was the owner of 4,614 square meters of farmland in the village of Losie, county Gorlice, voivodeship Rzeszow, Poland, when such property was taken by the Government of Poland on September 1, 1947, and that the total value of the property at the time of taking was Six Hundred Dollars ($600.00). It is, therefore

ORDERED that the award granted in the Proposed Decision heretofore issued be and the same is hereby modified to conform to the foregoing.

A W A R D

An award is hereby made to MICHAEL SHAW in the principal amount of Six Hundred Dollars ($600.00), with interest thereon at 6% per annum from September 1, 1947 to July 16, 1960, the date of the Polish Claims Agreement, in the sum of Four Hundred Sixty-three Dollars and Fifty Cents ($463.50).

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

NOV 13 1963

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

PO-10824

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MICHAEL SHAW

Claim No. PO-10824

Decision No. PO- 946

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

Counsel for claimant: Basil W. Kacenden, Esq.

PROPOSED DECISION

This claim, for $4,000.00, is based upon the asserted ownership and loss of 4614 square meters of farmland in Losie, county Gorlice, voivodeship Rzeszow, Poland. Claimant, MICHAEL SHAW, has been a national of the United States since his naturalization on October 2, 1923.

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 documents and affidavits submitted by claimant, that claimant was the owner of 4614 square meters of farm land in the village of Losie, county Gorlice, voivodeship Rzeszow, Poland, and that his property was taken by the Government of Poland pursuant to the 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, 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 claimant's property was effective on October 5, 1961. However, the Commission finds that the brother-in-law of the claimant who was

authorized by him to use the land was forcibly evicted therefrom by Polish authorities on or about September 1, 1947, since which time claimant has had no control over or benefit from the property, and has been deprived of all incidents of ownership thereof. Although there was no legal transfer of title to the property until a later date, the Commission concludes that on September 1, 1947 claimant lost the use and enjoyment thereof within the meaning of Article 2(b) of the Polish Claims Agreement of 1960. The Commission finds, therefore, that claimant's land was taken on that date.

Claimant has submitted no evidence with regard to the value of the 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 Losie, County Gorlice, Poland, was $295.00 per hectare. Accordingly, the Commission finds that the value of claimant's property, measuring 4614 square meters, or 0.4614 hectare, of land at the time of its taking was $136.11 and concludes that he is entitled, under the Agreement, to an award in that amount.

The Commission has concluded 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 MICHAEL SHAW in the principal amount of One Hundred Thirty-six Dollars and Eleven Cents ($136.11), with interest thereon at 6% per annum from September 1, 1947, to July 16, 1960, the date of the Polish Claims Agreement, in the sum of One Hundred Five Dollars and Fourteen Cents ($105.14).

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

APR 24 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)).