

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARTHA TACHAU
GERHARD M. HELFT

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0177
G-0178

Decision No. G-1071

Appeal and objection from a Proposed Decision entered on July 25, 1979. No Oral Hearing Requested.

Hearing on the record held on AUG 27 1980

FINAL DECISION

These claims in the total asserted amount of 361,478.26 Marks against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, are based upon the loss of a villa at Talstrasse 13 in Bleicherode, a 1/3 interest in a weaving mill and offices in Niedergebura near Bleicherode and certain silver and jewelry confiscated during the Nazi regime in 1939.

By Proposed Decision dated July 25, 1979, the Commission granted awards to MARTHA TACHAU and GERHARD M. HELFT in the respective amounts of \$10,000.00 each plus interest for the loss of a villa at No. 13 Talstrasse in Bleicherode and an award in the amount of \$29,655.24 plus interest to GERHARD M. HELFT for his interest in real property associated with a business in Bleicherode which was nationalized by the East German authorities on May 8, 1947. A portion of GERHARD M. HELFT's claim based upon the loss of inventory, machinery and debts owed to the company was denied for the reason that the evidence of record did not establish that such property survived World War II or was in existence at the time of the nationalization of the company.

GERHARD M. HELFT objected to the Proposed Decision and submitted new evidence in support of his objection from which the Commission now finds that certain machinery and equipment related to the operation of the firm known as the Mechanische Weberei Philipp Schlesinger in Bleicherode, in which GERHARD M. HELFT had a one-third interest as determined in the Proposed Decision issued on these claims, survived the war and was taken by the German Democratic Republic on May 8, 1947, when the firm was nationalized.

Having considered all the evidence of record, including evidence of the West German claims proceedings based upon a decision of the Administrative Court of Duesseldorf which found that the equipment associated with the business in question had a value of 144,935.75 reichsmarks, the Commission concludes that GERHARD M. HELFT is entitled to compensation under section 602 of the Act in the amount of \$12,000.00 for his one-third interest in the loss.

Accordingly, it is

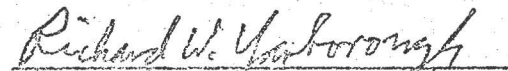
ORDERED that the Proposed Decision issued on July 25, 1979 be amended in accordance with the above; that the awards granted in the Proposed Decision on these claims be restated as set forth below; and that the Proposed Decision be affirmed in all other respects.

A W A R D S

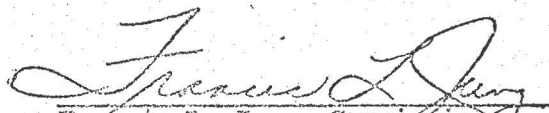
Claimant, MARTHA TACHAU, is therefore entitled to an award in the amount of Ten Thousand Dollars (\$10,000.00) plus interest at the rate of 6% simple interest per annum from January 1, 1948, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic; and

Claimant, GERHARD M. HELFT, is therefore entitled to an award in the amount of Ten Thousand Dollars (\$10,000.00) plus interest at the rate of 6% simple interest per annum from January 1, 1948, and an award in the amount of Forty-One Thousand Six Hundred Fifty-Five Dollars and Twenty-Four Cents (\$41,655.24) plus interest at the rate of 6% simple interest per annum from May 8, 1947, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

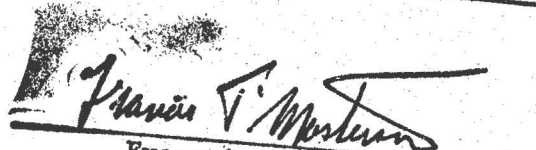
Dated at Washington, D.C.
and entered as the Final
Decision of the Commission.


Richard W. Yarbrough, Chairman

AUG 27 1980


Francis L. Jung, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on AUG 27 1980


Executive Director

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FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARTHA TACHAU
GERHARD M. HELFT

Under the International Claims Settlement
Act of 1949, as amended

G-0177
Claim No. G-0178

Decision No. G-1071

PROPOSED DECISION

These claims in the total asserted amount of 361,478.26 Marks against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), are based upon the loss of a villa at Talstrasse 13 in Bleicherode, a 1/3 interest in a weaving mill and offices in Niedergebra near Bleicherode and certain silver and jewelry confiscated during the Nazi regime in 1939.

Claimants, MARTHA TACHAU and GERHARD M. HELFT, became United States citizens on January 6, 1944, and June 12, 1945, respectively.

Under section 602, Title VI of the Act, the Commission is given jurisdiction as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. . ."

Based upon all the evidence of record, including a report of an investigation by the Commission's staff, the Commission finds that Felix Helft, claimants' father was the owner of a villa at No. 13 Talstrasse in Bleicherode in 1930, and that upon his death on June 2, 1935, his wife, Alice R. Helft, a United States citizen since her naturalization on June 5, 1945, acquired a life tenancy in the property until her death on January 30, 1950, at which time, MARTHA TACHAU and GERHARD M. HELFT, the claimants herein, remaindermen under the terms of the will of Felix Helft, acquired a full one-half interest each in the claim for the loss of such property.

The real property at Talstrasse 13 was confiscated in 1939 by the Nazi regime pursuant to the racially persecutory decrees of that regime because it was Jewish owned. Record title to the property was transferred pursuant to such persecutory confiscation.

The effect of such transfer of title under racial persecutory laws of the Nazi regime, was consider by the Commission in the administration of the Polish Claims Program under Title I of the International Claims Settlement Act of 1949, as amended, for claims against the Government of Poland pursuant to an "Agreement with the Government of the Polish People's Republic Regarding Claims of Nationals of the United States", dated July 16, 1960. In the Claim of HERBERT BROWER, Claim No. PO-1246, Decision No. PO-1634 the Commission held that the transfer of property due to the persecutory decrees of the then German Government was invalid and did not divest the owner of beneficial ownership rights in the property. Where such property was subsequently confiscated by the Government of Poland at a time when the beneficial owner was a United States citizen, a claim against the Government of Poland was found to be compensable. (See also Claim of ARIS GLOVES, INC., Claim No. CZ-1170, Decision No. CZ-3035; Claim of ULRICH O. STRUSS, Claim No. W-22752, Decision No. W-20487; Claim of GERTRUD KOLISCH, Claim No. Y-1751, Decision No. Y-1447.)

This Commission has reviewed the decision in the BROWER claim and the circumstances in the instant claim and finds the Nazi confiscation of the real property for which claim is made herein to be of the same nature such that the owners at that time were not divested of all rights by the transfer of this property pursuant to the persecutory action of the Nazi regime, which action constituted a denial of justice and a violation of the standard of justice contemplated in international law.

Based upon the evidence of record the Commission finds that the subject improved real property was confiscated by the East German authorities and turned into a public clinic on or about January 1, 1948. The Commission holds that this action constitutes a taking of property interests owned by United States nationals at the time as is required by sections 602 and 603 of Public Law 94-542.

Claimants stated at the time of filing that the villa at No. 13 Talstrasse in Bleicherode had a value of 60,000 reichsmarks based upon a 1928 tax assessment.

Considering all the evidence of record including pictures submitted and a 1935 tax assessment of 42,000 reichsmarks, the Commission concludes that the subject real property had a value of \$20,000.00 on the date of loss and that claimants, MARTHA TACHAU and GERHARD HELFT, are entitled to compensation under section 602 of the Act, cited above, in the amount of \$10,000.00 each for their respective one-half interests in this property.

The Commission finds based upon the evidence, that claimant, GERHARD M. HELFT, owned a 1/3 partnership interest in the firm known as the Mechanische Weberei Philipp Schlesinger in Bleicherode and that the factory involved was sold under duress on July 20, 1938. For the reason outlined above in regard to the BROWER decision, the Commission finds that this sale under duress, pursuant to discriminatory laws of the Nazi regime, did not deprive the claimant of his ownership interest in the subject property, except to the extent of the value of any actual disposable consideration which he might have received.

The Commission further finds, based upon the evidence of record, including a report of an investigation by the Commission's field office in West Germany, that the firm of Mechanische Weberei Philipp Schlesinger in Bleicherode was nationalized by the East German authorities on May 8, 1947.

At the time of filing claimant asserted that his interest in the business property claimed had a value of 301,478.26 reichsmraks. In support of this amount the claimant has submitted certain documentation. The report from the Commission's field office in West Germany indicates that the value of the factory's working capital in 1938 was 535,450 reichsmarks. This amount was based upon a decision of the Administrative Court of Dusseldorf in 1969. Based upon all the evidence of record, including two estimates of the value of the land and buildings related to the business in 1938, the Commission finds that the value of such land and buildings in 1938 was 265,000 reichsmarks. There being no evidence in the record to establish that the other assets of the business, that is, inventory, machinery, or debts owed to the company survived the war or were in existence at the time of taking by the German Democratic Republic, any claim for the loss of assets other than the real property must be and hereby is denied.

Therefore, having considered all the evidence of record, and taking into consideration the general rise in land values in Eastern Europe after World War II, the Commission finds that the improved real property belonging to the company on which this claim is based had a value of \$96,000.00 on May 8, 1947, the date of loss, and that the 1/3 share owned by claimant, GERHARD M. HELFT, less 9,848 reichsmarks received from the original sale under duress, had a value of \$29,655.24.

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Accordingly, the Commission concludes that claimant, MARTHA TACHAU, is entitled to \$10,000.00 and claimant, GERHARD M. HELFT, is entitled to \$39,655.24 for their respective losses under section 602 of the Act.

The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

With respect to that portion of the claim filed by MARTHA TACHAU, based upon silver and jewelry stated to have been confiscated by the Gestapo on January 26, 1936, the Commission finds that the original loss is not compensable under the Act for the reason that the property was not owned by a United States national at the time of taking. Furthermore, no evidence has been submitted to show that this personal property survived World War II and was subsequently taken by the German Democratic Republic. Accordingly, this portion of these claims based upon personal property must be and it is hereby denied.

A W A R D S

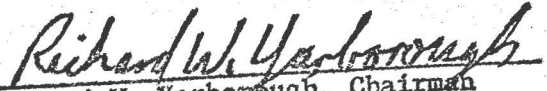
Claimant, MARTHA TACHAU, is therefore entitled to an award in the amount of Ten Thousand Dollars (\$10,000.00) plus interest at the rate of 6% simple interest per annum from January 1, 1948, until the date of the conclusion of an agreement for payment on such claims by the German Democratic Republic; and

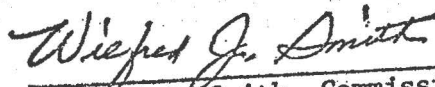
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Claimant, GERHARD M. HELFT, is therefore entitled to an award in the amount of Ten Thousand Dollars (\$10,000.00) plus interest at the rate of 6% simple interest per annum from January 1, 1948, and an award in the amount of Twenty-Nine Thousand Six Hundred Fifty-Five Dollars and Twenty-Four Cents (\$29,655.24) plus interest at the rate of 6% simple interest per annum from May 8, 1947, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

JUL 25 1979


Richard W. Yarborough, Chairman


Wilfred J. Smith, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)

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