

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

IN THE MATTER OF THE CLAIM OF

RICHARD STERNKOPF

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0635

Decision No. G-1117

Hearing on the Record held on APR 01 1981

FINAL DECISION

This claim in the amount of \$4,500.00 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), is based upon the loss of a mortgage on improved real property in Stollberg.

In its Proposed Decision dated August 8, 1979, the Commission denied this claim for the reason that the record indicated that claimant failed to submit evidence to establish that the mortgage interest on which his claim was based had been nationalized as or otherwise taken by the German Democratic Republic as required for compensation under the Act.

Claimant objected to the Proposed Decision but submitted no new evidence in support of his objection.

While the Commission realizes that it is difficult in many cases to obtain evidence of the postwar taking of interests in property in the German Democratic Republic, on the other hand, the requirement that the Commission find that claimant owned property or an interest in property taken in the German Democratic Republic, including East Berlin, is a statutory requirement and accordingly the record must contain some evidential basis for finding or presuming that the interest claimed was taken by the German Democratic Republic. In the instant case, the record is simply devoid of any evidence to establish that payments on the mortgage in question continued after the war or that the German Democratic Republic would have received the benefit of any such payments. Furthermore, there is no evidence that the real property securing the mortgage was taken by the German Democratic Republic.

Full consideration having been given to the entire record, including the claimant's objections, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

Accordingly, it is

ORDERED that the Proposed Decision be affirmed and entered as the Commission's final determination on this matter.

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

APR 01 1981

Richard W. Yarborough
Richard W. Yarborough, Chairman

Francis L. Jung
Francis L. Jung, Commissioner

Francis T. Williams
Executive Director

Ralph W. Emerson
Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision
the Commission which was entered as the final
decision on APR 1 1981

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PROPOSED DECISION

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The record indicates that claimant became a United States citizen on June 8, 1934.

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. . ."

At the time of filing, claimant stated that he was the owner of a mortgage on improved real property at Schillerstrasse No. 14, formerly No. 2G in Stollberg, and that such mortgage was taken indirectly by the German Democratic Republic after World War II.

In support of his claim, claimant submitted copies of documents dated November 25, 1931, and March 20, 1937, which indicate that he owned a mortgage in the amount of 5,000 reichsmarks on property owned by Franz M. Schaarschmidt. No evidence was submitted to show that the mortgage interest or improvements to property survived World War II or that the interest in the property was taken by the German Democratic Republic as required for compensation under the Act.

By letter dated May 22, 1979, claimant was advised to submit evidence of the date and manner of taking of his mortgage interest by the German Democratic Republic within 30 days from the date of the letter. To date no evidence or response has been received.

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 (1977)).

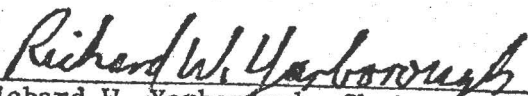
Therefore, based upon the foregoing, the Commission finds that claimant has failed to submit evidence to establish that he owned an interest in property which was nationalized or otherwise taken by the German Democratic Republic as required for an award to be granted under the Act.

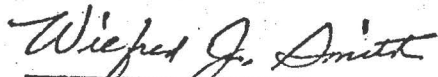
For the above cited reasons, the claim must be and hereby is denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

AUG 8 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.)

At any time after Final Decision has been issued on a claim, or a Proposed Decision has become the Final Decision on a claim, but not later than 60 days before the completion date of the Commission's affairs in connection with this program, a petition to reopen on the ground of newly discovered evidence may be filed. (FCSC Reg., 45 C.F.R. 531.5 (1), as amended).