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

IN THE MATTER OF THE CLAIM OF

ULRICH STRAUSS

Under the International Claims Settlement Act of 1949, as amended

Claim No. G-0725

Decision No. G-3287

Counsel for Claimant: Paul L. Weiden, Esquire

Oral Hearing held on March 31, 1981

FINAL DECISION

This claim in the amount of $5,511,000.00 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 shareholder interests in the following industrial and commercial enterprises:

1. Eisenhuettenwerke Thale A.G., Thale, Thuringia
2. Chamotte-Silikat-Werke G.m.b.H., Thale, Thuringia
3. Wagner & Lange G.m.b.H., Leipzig
4. Mansfeld A.G., Eisleben
5. Hallesche Roehrenwerke A.G., Halle/Saale
6. Dolberg A.G., Berlin
7. Blech- und Metallshandel Otto Wolff A.G., Berlin.

In addition, a claim is asserted for the loss of the following parcels of real property:

1. Dorotheenstrasse 11, East Berlin
2. Pfaffendorferstrasse 2, Leipzig
3. Duebenerstrasse (no number), Leipzig
4. Geisslerstrasse 16, Leipzig
5. Geisslerstrasse 18, Leipzig
6. Geisslerstrasse 20, Leipzig
7. Buelowstrasse 14, Leipzig
8. Buelowstrasse 16, Leipzig
9. Buelowstrasse 18, Leipzig
10. Buelowstrasse 20, Leipzig
11. Paulinenstrasse 19, Leipzig
12. Paulinenstrasse 21, Leipzig
13. Weissenburgstrasse 25, Leipzig
14. Eythstrasse 3, Leipzig
15. Eythstrasse 5, Leipzig
16. Eythstrasse 7, Leipzig
17. Eythstrasse 13, Leipzig
18. Eythstrasse 15, Leipzig
19. Eythstrasse 17, Leipzig
20. Zschorthauerstrasse (no number), Leipzig.

By Proposed Decision dated February 25, 1981, the Commission granted to claimant an award totalling $96,100.00, consisting of $8,500.00 for the loss of a one-half beneficial interest in the seventeen parcels of real property in Leipzig, listed at 4. through 20. above, as of September 6, 1951, together with $87,600.00 based upon the loss of a 36.5% beneficial ownership interest in the real property in East Berlin and Leipzig listed at 1., 2., and 3. above, as well as a third piece of property at Beierfeld in Leipzig, as of December 31, 1946. The remainder of the claim was denied. In the case of the Eisenhuettenwerke Thale A.G., the Chamotte-Silikat-Werke G.m.b.H., and the Wagner & Lange G.m.b.H., listed at 1. through 3. in the group of industrial and commercial enterprises above, the reason for denial was that it appeared from the record that the firm Otto Wolff oHG, in which the Commission has determined that the claimant held a beneficially-owned partnership interest notwithstanding the ouster of his father, Ottmar Strauss, from the firm for reasons of Nazi religious persecution in 1933, acquired the three concerns as a beneficiary of those same Nazi persecutory policies. As such, it was the Commission's conclusion that the Otto Wolff firm's title to the concerns was invalid, and claimant's beneficial partnership interest in the firm could not be held to have extended to the assets of those three concerns. In the case of the claimant's claim for the loss of a beneficially-owned shareholder interest in the Mansfeld A.G., listed as the fourth enterprise above, the reason for denial was that the record indicated that the shares in the concern owned by the Otto Wolff firm were exchanged before World War II for shares in another concern, the "Stollberger Zink A.G. fuer Bergbau und Huettenbetrieb" in Aachen, in present-day West Germany, so that the claimant, as a beneficial part-owner in the Otto Wolff firm, would no longer have held an interest in the Mansfeld concern when the German Democratic Republic came into

existence after World War II. In the case of the Hallesche Roehrenwerke A.G., listed as the fifth enterprise above, the reason for denial was that it was previously determined by the Commission in its decision in claimant's General War Claim that claimant's status as a beneficial part-owner in the Otto Wolff firm made him only an indirect part-owner of the corporations in which shares were owned by the Otto Wolff firm, and the record failed to establish that at least 25% of the stock ownership of the Hallesche Roehrenwerke concern, including his indirect beneficial interest, was held by nationals of the United States, as required by section 604(c) of the Act. In the case of the Dolberg A.G., and the Blech- und Metallshandel Otto Wolff A.G., listed as the sixth and seventh enterprises above, the reason for denial was that it appeared from the record that these concerns were located in what is now West Berlin, thereby making it impossible for the German Democratic Republic to have nationalized or otherwise taken the Otto Wolff firm's ownership interest in those concerns. Furthermore, there was no indication in the record that the assets of the concerns located within the German Democratic Republic were of such magnitude that a taking of them by the German Democratic Republic would have amounted to a *de facto* nationalization of the concerns.

Although not formally claimed for by the claimant, references were also made in the record to other property and property interests in the territory of the German Democratic Republic which were assertedly taken after World War II. However, to the extent that the claimant's claim was based upon those losses, that portion of his claim was also denied. In the case of the firm Industriefinanzierung A.G. in East Berlin, the reason for denial was that the claimant's interest in that firm was also indirect through the Otto Wolff firm, and it was not established that 25% of the ownership interests in the concern were owned by nationals of the United States at the time of loss, as required

by section 604(c) of the Act. In the case of the industrial equipment referred to, the reason for denial was that it was not established in the record that the loss of that equipment occurred through action amounting to a nationalization or other taking by the German Democratic Republic. Furthermore, the record indicated that some of the equipment was owned by the Otto Wolff firm through concerns controlled by it in what is now West Germany, and there was no evidence that the amount of equipment was so substantial that a taking of it would have constituted a de facto nationalization of those concerns. In the case of the bank accounts, the reason for denial was that the record failed to establish that the accounts were in fact nationalized or otherwise taken by the German Democratic Republic, rather than simply having been "blocked" as a measure of governmental currency regulation.

Claimant, through his attorney, filed an objection to the Proposed Decision, and requested an oral hearing at which to present further argument in support of his objection. Pursuant to his request, an oral hearing was set for March 31, 1981, at 10:00 a.m. in the Commission's hearing room in Washington, D.C. The hearing was held as scheduled, and claimant's attorney appeared at the hearing and submitted further statements and arguments for the Commission's consideration. In addition, by letter dated April 3, 1981, the attorney submitted further discussion and argument in amplification of the arguments presented at the oral hearing. The various arguments and statements which comprise the claimant's objection are set forth and discussed below.

Claimant's first point of objection addresses the finding in the Proposed Decision that the seventeen parcels of real property in Leipzig, listed at 4. through 20. in the list of properties above, had a value of $1,000.00 each as of the date of loss of September 6, 1951. He asserts instead that the properties had a value of $15,000.00 each, for a total of $225,000.00, based upon

an entry in the extensive report of the German accounting firm, "Treuarbeit," compiled in 1952, which indicates that "some" of the properties had been sold in 1933 and in 1934 for approximately 200,000 reichsmarks. In addition, he refers to a 1933 list of all of the properties in the Germany, including the seventeen parcels here in question, which were owned jointly by his father and his father's former business partner, Otto Wolff, and he argues that because four of the thirty-two properties in that list were characterized as "building sites" or "agricultural land," the Commission should infer that all of the remaining properties, including the seventeen Leipzig parcels here in question, were improved and thus of greater value than was determined in the Proposed Decision. Thirdly, he asserts that the properties "must" have had higher values than the Commission determined, because wealthy men such as his father and Otto Wolff would not have owned investment properties of a value of only $1,000.00 each.

The Commission agrees with the claimant that a higher valuation of these seventeen parcels is warranted. At the same time, however, the Commission considers it unacceptably speculative, based upon the meager amount of evidence of record, to attempt to extrapolate or otherwise estimate the value which all of the seventeen parcels together would have had at the time of loss of claimant's one-half beneficial interest therein in 1951. Based upon its review of the record, the Commission concludes instead that the only probative evidence of any of the seventeen Leipzig properties consists of the accountants' report statement that some of the properties were sold for 200,000 reichsmarks in or about 1934. The award granted to the claimant for the loss of a one-half beneficial interest in those seventeen parcels must therefore be limited to a valuation based upon that figure.

Accordingly, after taking into account the general rise in real property values in Eastern Europe in the years following World War II, the Commission finds that the seventeen parcels of real property in Leipzig claimed for herein had a total value of $70,000.00 as of the date of loss of September 6, 1951. For his inherited one-half beneficial interest therein, claimant is therefore entitled to an award of $35,000.00.

Claimant next objects to the finding in the Proposed Decision that the total amount of loss sustained by the Leipzig Branch of the Otto Wolff firm--in which, as heir of his father, he held a 36.5% beneficial partnership interest--was $160,000.00, based upon the expropriation of the Branch by the German Democratic Republic in 1946. He argues instead that the total value of the loss was approximately 3,000,000 marks, and he refers again to the Treuarbeit accountants' report as the basis for this contention.

As the Commission pointed out during the course of the oral hearing, the accountants' report contains no basis for a finding that any of the assets of the Branch which were written off by the Otto Wolff firm subsequent to the expropriation of the Branch in 1946, other than the three parcels of real property for which an award was granted in the Proposed Decision, were actually lost as a result of that expropriation. In particular, the largest written-off asset, that for "receivables for merchandise," could well have simply been uncollectable, due to their having been owed by the Nazi Reich government or by private firms which went out of existence as a result of the events of World War II. Claimant's attorney stated subsequent to the oral hearing that he intended to seek further information in West Germany regarding the specific nature of the "receivables for merchandise" asset of the Branch and the circumstances of its loss. However, that information has not yet been received.

As a second point, the "separate account" which was written off could well have simply have been "blocked" as a measure of currency exchange control, an action which has been held not to amount to a taking under international law. Thirdly, the "compensation for inhabitable house duty" which was written off would presumably have been owed by the defunct Nazi Reich government, and the German Democratic Republic was not expressly liable under international law for the obligations of its precedessor regime.

In summary, the Commission therefore concludes from the record that it must affirm the finding in the Proposed Decision that the only assets of the Leipzig Branch of the Otto Wolff firm which can be considered to have been nationalized or otherwise taken by the German Democratic Republic, within the meaning of the present Act, were the three parcels of real property which served as its business premises. On the other hand, in view of the entry in the accountants' report which states that the total tax-assessed valuation of that property as of 1941 amounted to approximately 858,000 marks, the Commission concludes that an increase in its valuation of that property is warranted.

Accordingly, the Commission now finds that the property owned by the Leipzig Branch of the Otto Wolff firm, after deducting for the war damage for which claimant previously received an award in the General War Claims program, was $190,000.00 when it was taken on December 31, 1946. For his 36.5% beneficial interest therein, claimant is therefore entitled to an award of $69,350.00.

Claimant's next point of objection is directed to the Commission's denial of the portion of his claim based upon beneficial interests in the corporations Hallesche Roehrenwerke A.G. and Industriefinanzierung A.G. As mentioned, the Commission's conclusion was that his interests were indirect through the Otto Wolff firm, and the record failed to establish that at least 25% of the

ownership interests in the corporations, including his beneficial interest in the stock of the corporations owned by the Otto Wolff firm, amounted to at least 25%, thereby not meeting the requirement set forth in section 604(c) of the Act. Claimant asserts instead that it is an "elementary point of German law" that a partner in a German partnership holds a direct interest in all of the partnership's assets, that he was thus a direct beneficial owner of interests in the corporations in question, and that his claim for the loss of those interests should therefore be found compensable.

The Commission held in its decision in claimant's earlier General War Claim, cited in the Proposed Decision, that his beneficial interests in corporations in which the Otto Wolff firm was a shareholder were indirect interests, based upon its analysis of German law and the further fact that, under the terms of the partnership agreement between his father and Otto Wolff, his status as the heir to his father's partnership interest was that of only a limited partner. Inasmuch as claimant has not submitted any further evidence or cited any further authority to refute this conclusion, the Commission finds that a change in the Proposed Decision on this issue is not warranted.

Claimant's fourth ground of objection relates to the Commission's denial of his claim for the loss of a beneficial interest in the Eisenhuettenwerke Thale A.G. and its two subsidiaries, listed as 1., 2., and 3. in the list of industrial enterprises on the first page of this decision. As was stated in the Proposed Decision, the Commission held in Claim of ALBERT OTTEN and HANNAH SINAUER, Claim No. G-0261 and G-3855, Decision No. G-3286 (1981), that these enterprises were beneficially owned after 1936 to the extent of approximately 46% by Albert Otten, the claimant in Claim No. G-0261, and to the extent of approximately 51% by the family of the claimant Hannah Sinauer, the claimant in Claim No.

G-3855, and the Commission granted awards on those claims based upon the loss of those beneficial interests through nationalization of the enterprise by the German Democratic Republic in September 1947.

Claimant first argues in this portion of his objection that, as to the interest in the concern held by Albert Otten, the Commission should find that the payment by the Otto Wolff firm of some 4,600,000 marks to Albert Otten, following a restitution suit brought by the latter against the firm in West Germany in or about 1960, should be considered to have vested valid title to the Thale enterprise in the Otto Wolff firm to the extent of that payment, and that claimant should be granted an award equivalent to 36.5% of those 4,600,000 marks. As to the beneficial interest of the family of claimant Hannah Sinauer, the Rothschilds, he contends that it should be assumed that they did not file a restitution claim against the Otto Wolff firm after World War II, and that under the restitution laws in effect in Germany at the time, the ownership interest in the Thale concern acquired from them by the Otto Wolff firm would have been deemed valid after 1951, notwithstanding the fact that it was acquired through the benefit of Nazi persecutory measures. On this basis, he argues that he should therefore be granted an award equivalent to a 36.5% portion of the interest assertedly validated by those restitution laws.

In addition, or in the alternative, claimant takes issue with the Commission's finding that the Otto Wolff firm had acquired the approximately 51% interest in the Thale concern, previously owned by claimant Hannah Sinauer's family, through taking advantage of Nazi persecutory measures, asserting that her family had been in a very poor financial situation as early as 1929, and that their interest in the Thale enterprise had already been taken over by a consortium of banks prior to the advent of the Nazi regime in 1933 and the acquisition of the interest by the Otto Wolff firm in 1936.

As a third point, claimant contends that even if the Commission rejects the foregoing arguments, it should grant him an award based upon an interest in the inter-corporate obligations owed by the Thale concern to branches of the Eisenhuettenwerke conglomerate in West Germany, also owned by the Otto Wolff firm, which were still outstanding when the Thale concern was nationalized in 1947.

The Commission is unable to accept the claimant's contention that, as owner of a beneficial partnership interest in the Otto Wolff firm, he acquired a valid legal interest in any portion of the Thale concern and its subsidiaries, either before or after World War II. In the first place, the Commission considers it inappropriate, as a matter of public policy, for a claimant to have the benefit of eventual espousal by the United States of a claim based upon the loss of a beneficially owned property interest which was acquired through measures of religious persecution. Secondly, the payment by the Otto Wolff firm to Albert Otten in or about 1960 cannot be viewed as having vested any valid legal interest in the Thale concern in the claimant, because the terms of the settlement reached with the Otto Wolff firm following his restitution suit against the firm in West Germany in 1952 provided that in exchange for the firm's payment to him of 7,000,000 marks, he agreed to relinquish any further claim to rights or interests in the Otto Wolff firm or its assets. Thirdly, the Commission is of course not bound by the provisions of West German restitution law, and even if it chose to apply the theory which claimant states is incorporated in that law, claimant has provided no evidence to support the suggested assumption that Hannah Sinauer's family never filed a restitution claim against the Otto Wolff firm in West Germany after World War II.

As for claimant's assertion that the Rothschild family lost its interest in the Thale concern through financial misfortune and not through Nazi persecutory measures, he has submitted absolutely no evidence, other than statements purportedly based on his attorney's own knowledge, to support that assertion. Furthermore, the assertion is contradicted by substantial and probative evidence which is of record with the Commission.

Finally, as to the intercorporate obligations of the Thale concern and its subsidiaries to other concerns owned by the Otto Wolff firm in West Germany which were outstanding when the Thale concern was nationalized in 1947, the record contains no evidence as to the nature of these obligations or the value they may in fact have had when the Thale concerns were nationalized. The record merely indicates that an amount of some 7,768,000 reichmarks connected with the Thale concern was written off by the Otto Wolff firm as an uncollectable loss, apparently for tax purposes, immediately prior to the currency conversion from reichsmarks to Deutsche marks in 1948. As such, the Commission is unable to ascertain the extent to which the Otto Wolff firm, and thus the claimant, sustained a loss of "debts of a nationalized enterprise"--that is, of the Thale concerns--for purposes of granting an award under the Act.

Claimant's fifth ground of objection is addressed to the denial of his claim for an interest in various bank accounts owned by the Otto Wolff firm which were assertedly taken by the German Democratic Republic, together with an interest in other monetary losses--"claims"--apparently based upon debts owed to the Otto Wolff firm by individuals or entities in the territory of the German Democratic Republic. He contends that the Treuarbeit report's listing of these assets as "lost" should be held to establish that these assets were in fact nationalized or otherwise taken by the German Democratic Republic, within the meaning of the Act.

The Commission is also unable to accept the contention advanced in this portion of the claimant's objection. As for the bank accounts for which he has claimed, the evidence of record gives no indication as to the action to which they may have been subjected; they could well have simply been "blocked" as a measure of currency control implemented by the German Democratic Republic, an action which, as already noted, does not amount to a taking under international law. As for the other monetary losses, or claims, these could simply have been uncollectable, the same as those owed to the Leipzig Branch of the Otto Wolff firm, discussed above, due to their having been owed by the former Nazi Reich government or by entities which had been forced out of existence by the events of World War II.

As his last point of objection, claimant takes issue with the valuation of the real property at Dorotheenstrasse 11 in East Berlin at $80,000.00 as of its loss in 1946. Instead, he contends in his written objection that the property should be valued at approximately $137,000.00, thereby entitling him to an award of $50,000.00 for the loss of his 36.5% beneficial interest in the property, held as a beneficial limited partner in the Otto Wolff firm. However, this contention is based on the assumption that the conversion ratio of 2.5 marks to one dollar is the conversion ratio used by the Commission, and it was pointed out at the oral hearing that the Commission bases its evaluation of property losses on a conversion ratio of 4.2 marks to one dollar.

In his letter of April 3, 1981, claimant's attorney accordingly has reduced the figure for the loss of claimant's 36.5% beneficial interest in the Dorotheenstrasse property to $30,000.00. However, it will be noted that the award granted in the Proposed Decision for the loss of that interest amounted to $29,200.00. Since this difference is not material, the Commission finds that a change in the Proposed Decision as to this property is not warranted.

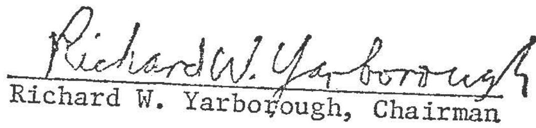
Based upon the foregoing, the Commission therefore withdraws the award of $96,100.00 granted in the Proposed Decision and grants a revised award of $133,550.00, as set forth below. In all other respects, the findings of the Proposed Decision are affirmed.

AWARD

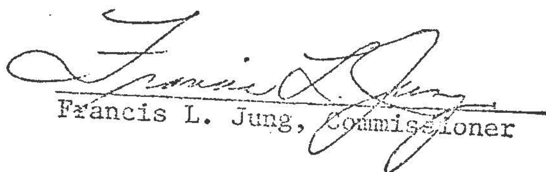
Claimant, ULRICH STRAUSS, is therefore entitled to an award in a total amount of One Hundred Thirty-Three Thousand Five Hundred Fifty Dollars ($133,550.00), consisting of $98,550.00 plus interest at the rate of 6% simple interest per annum from December 31, 1946, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic, and $35,000.00 plus interest at the rate of 6% simple interest per annum from September 6, 1951, 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.

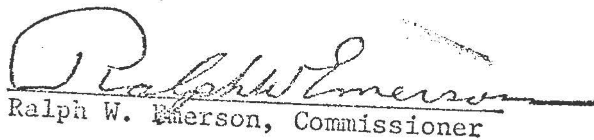
APR 29 1981



Richard W. Yarborough, Chairman



Francis L. Jung, Commissioner



Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision on APR 29 1981

Executive Director

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

IN THE MATTER OF THE CLAIM OF

ULRICH STRAUSS

Under the International Claims Settlement Act of 1949, as amended

Claim No. G-0725

Decision No. G-3287

Counsel for Claimant: Paul L. Weiden, Esquire

PROPOSED DECISION

This claim in the amount of $5,511,000.00 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 shareholder interests in the following industrial and commercial enterprises:

1. Eisenhuettenwerke Thale A.G., Thale, Thuringia
2. Chamotte-Silikat-Werke G.m.b.H., Thale, Thuringia
3. Wagner & Lange G.m.b.H., Leipzig
4. Mansfeld A.G., Eisleben
5. Hallesche Roehrenwerke A.G., Halle/Saale
6. Dolberg A.G., Berlin
7. Blech- und Metallshandel Otto Wolff A.G., Berlin.

In addition, a claim is asserted for the loss of the following parcels of real property:

1. Dorotheenstrasse 11, East Berlin
2. Pfaffendorferstrasse 2, Leipzig
3. Duebenerstrasse (no number), Leipzig
4. Geisslerstrasse 16, Leipzig
5. Geisslerstrasse 18, Leipzig
6. Geisslerstrasse 20, Leipzig
7. Buelowstrasse 14, Leipzig
8. Buelowstrasse 16, Leipzig
9. Buelowstrasse 18, Leipzig
10. Buelowstrasse 20, Leipzig
11. Paulinenstrasse 19, Leipzig
12. Paulinenstrasse 21, Leipzig
13. Weissenburgstrasse 25, Leipzig
14. Eythstrasse 3, Leipzig
15. Eythstrasse 5, Leipzig
16. Eythstrasse 7, Leipzig
17. Eythstrasse 13, Leipzig
18. Eythstrasse 15, Leipzig
19. Eythstrasse 17, Leipzig
20. Zschorthauerstrasse (no number), Leipzig.

The record indicates that claimant became a United States citizen on September 15, 1943.

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. . ."

The above-listed properties and property interests are claimed for by the claimant as the heir of his father, Ottmar Strauss, who died in August 1941. In Claim of ULRICH STRUASS, Claim No. W-12067, Decision No. W-20493 (1967), adjudicated in the earlier General War Claims program under Public Law 87-846, the Commission found that, until 1933, claimant's father, Ottmar Strauss, had been one of the two partners in the firm "Otto Wolff oHG" in Cologne, Germany, but that in 1933 and 1934 he was forced to relinquish his ownership interest in the firm in furtherance of the policies of religious and racial persecution of the Nazi regime. The Commission held that this loss of ownership was not effective to cut off all of claimant's father's rights in the firm and its assets, and that his father retained a beneficial interest therein which then passed to the claimant upon his father's death in 1941. This same analysis has been adopted and followed by the Commission in a substantial number of decisions on claims filed under the present Act. See, e.g., Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G-1071 (1979).

Based upon extensive evidence and arguments submitted in connection with the above-cited General War Claim, the Commission further held that the fractional share of the beneficial interests in the Otto Wolff firm and its assets which was acquired and held

by the claimant following his father's death amounted to 27%. Upon reconsideration of the record in that claim, including information contained in the report on the investigation of that claim by the Commission's field office in West Germany, and having reviewed the record in the present claim, the Commission concludes that this figure should be revised upward. Accordingly, the Commission finds, for purposes of the present decision, that claimant's beneficial interest in the Otto Wolff firm and its assets amounted to 36.5%.

With respect to the real property in East Berlin and on Pfaffendorferstrasse and Duebenerstrasse in Leipzig (listed at 1. through 3. above), it was established in the above-cited War Claim decision that these properties were owned by the Otto Wolff firm and it was held that claimant was entitled to an award for damage sustained by those properties during World War II. In addition, evidence submitted in the present claim indicates that the properties were nationalized by the German Democratic Republic in or about 1946. The Commission notes that, according to this evidence, the property involved in the nationalization also included as part of the Leipzig properties a "storage area in Beierfeld." Based upon the record, and in the absence of more specific evidence, the Commission finds that the subject property on Dorotheenstrasse in East Berlin and the three properties in Leipzig, including the Beierfeld property, were taken by the German Democratic Republic, within the meaning of the Act, as of December 31, 1946. Claimant is accordingly entitled to an award for the loss of a 36.5% beneficial interest in the properties as of that date.

A variety of figures have been asserted as the values of the properties at the time of their loss. In its decision on the claimant's War Claim, the Commission determined that the reductions in value of the properties resulting from war damage amounted to

600,000 marks for the East Berlin property and 128,850 marks and 20,213 marks, respectively, for the properties on Pfaffendorferstrasse and Duebenerstrasse in Leipzig. A review of the file in that claim indicates that these figures were based, in turn, on determinations that the East Berlin property was damaged to the extent of 80% of the value of the building thereon and that the properties on Pfaffendorferstrasse and Duebenerstrasse in Leipzig were damaged to the extent of 25% and 50% of the values of the buildings thereon, respectively. In addition, the evidence submitted in the present claim indicates that the Beierfeld property in Leipzig had a book value of approximately 118,500 marks at the end of World War II.

Based upon all of the evidence of record, both in the present claim and in claimant's earlier War Claim, and having deducted the values assigned to the war damage sustained by the properties, the Commission finds that, as of the date of loss of December 31, 1946, the property on Dorotheenstrasse in East Berlin had a value of $80,000.00 and the properties on Pfaffendorferstrasse and Duebenerstrasse and in Beierfeld in Leipzig had respective values of $125,000.00, $10,000.00 and $25,000.00, for a total value of $240,000.00. For his 36.5% interest therein, claimant is accordingly entitled to an award of $87,600.00.

The Commission notes that, according to the evidence submitted in the present claim, a substantial amount of inventory and other movable assets located at and pertaining to the three properties in Leipzig owned by the Otto Wolff firm were also lost in the period immediately following World War II. It cannot be ascertained from the record, however, whether these losses were sustained as a result of nationalization or other taking by the governmental authorities in Leipzig or whether they simply resulted from appropriations of the property by the Soviet army, followed by transfers thereof to the Soviet Union. Therefore, in the absence of a basis for a finding that these assets were subjected to a

nationalization or other taking by the German Democratic Republic, within the meaning of section 602 of the Act, a claim for the loss of those assets cannot be favorably considered. Accordingly, to the extent that the present claim is based upon the loss of such movable assets, the claim must be and it is hereby denied.

With respect to the parcels of real property in Leipzig which are listed 4. through 20. above, evidence submitted in the claimant's War Claim and in the present claim establishes that these properties were directly owned by claimant's father, Ottmar Strauss, and that the extent of his ownership amounted to a one-half interest therein. The record further establishes that claimant's father's legal title to these properties was also lost as a result of Nazi religious and racial persecution.

In its decision in Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G-1073 (1979), the Commission held that decrees of September 6, 1951, effective in the German Democratic Republic, and December 18, 1951, effective in Berlin, which provided for the taking over of administration of foreign owned property, constituted a governmental program which terminated all rights of restitution of former persecutees or their heirs. The Commission found such a termination of rights to be a taking of the property interests of such persons; and, where the property interests were owned by United States nationals at the time of loss, the termination of rights would form the basis of a compensable claim.

The Commission therefore finds that claimant's inherited one-half beneficial interest in the seventeen parcels of real property here in question was taken by the German Democratic Republic, within the meaning of the Act, as of September 6, 1951. Claimant is accordingly entitled a further award for the loss of his one-half interest in the properties as of that date.

Through his attorney, claimant asserts that these properties should be presumed to have been of substantial value, and he urges the Commission to attribute to the properties a value of $20,000.00 each. However, the record contains no evidence or

information of any kind regarding the properties' values. The relative locations of the properties within the City of Leipzig cannot be discerned from the record, nor does the record indicate the size or other physical characteristics of the properties, whether they were improved, or whether they merely consisted of unimproved building lots.

Based upon the record, the Commission finds that the seventeen parcels of real property in Leipzig for which the claimant has claimed had a minimum value of $1,000.00 each as of the date of loss of September 6, 1951. For his one-half interest therein, claimant is accordingly entitled to a further award of $8,500.00.

With respect to the portion of the present claim based upon the asserted loss of shareholder ownership interests in the Eisenhuettenwerke Thale A.G., the Chamotte-Silikat-Werke G.m.b.H., and the firm Wagner & Lange G.m.b.H., an investigation of the related claims of Albert Otten and Hannah Sinauer, Claim Nos. G-0261 and G-3855, Decision No. G-3286, established that the Otto Wolff firm, through which claimant asserts a beneficial interest in those enterprises, did not acquire an ownership interest in the enterprises until 1936. Moreover, the investigation disclosed that until 1936, approximately 98% of the entire stock of the Eisenhuettenwerke Thale concern was held by two Jewish-owned firms, the Firma Albert Ottenheimer in Cologne and the Aquila-Adlergruppe in Frankfurt/Main. In addition, a report prepared by the French Military Government for the French Occupation Zone of Germany after World War II, a copy of which was submitted in the present claimant's War Claim, states explicitly that "in 1936, the 'arianizing' [sic] measures [of the Nazi regime] permitted . . .[Otto Wolff] to gain control over the share capital of the Eisen- und Huettenwerke A.G. Thale (Harz)." In addition, it appears from the field office investigation report, as well as from other evidence in the record, that the Chamotte-Silikat-Werke G.m.b.H. and Wagner & Lange concerns were subsidiary corporations of the Eisenhuettenwerke Thale which were acquired by

the latter after 1936. According to the record, these concerns, as well as another company, known as the Hagei Handelsgesellschaft fuer Eisen, Huettenbedarf und Stahl G.m.b.H. in Leipzig, which had also been acquired from the Jewish-owned Firma Albert Ottenheimer in 1936, were all solely owned by their parent corporation, the Eisenhuettenwerke Thale A.G.

In the above-cited decision in the claims of Albert Otten and Hannah Sinauer, it was determined that the transfer of ownership of the Eisenhuettenwerke Thale concern to Otto Wolff in 1936 was effected as a result of Nazi religious and racial persecution. On the basis of that determination, it was then held that claimant Albert Otten and the predecessor of the claimant Hannah Sinauer retained beneficial interests in the concern and its assets, and awards were granted to those claimants for the subsequent loss of beneficial interests therein through nationalization of the concern by the German Democratic Republic in 1947. In conformity with the decision in those claims, and having carefully considered the record herein, the Commission must conclude that the present claimant's beneficial ownership interest in the Otto Wolff firm and its assets cannot validly be considered to have included a beneficial interest in the Eisenhuettenwerke Thale concern. Furthermore, in view of the fact that the other companies here in question were solely owned by Eisenhuettenwerke Thale and were acquired by it after 1936, the Commission must conclude, in the absence of evidence to the contrary, that the acquisition of these companies was financed by earnings or capital reserves of the Eisenhuettenwerke Thale. As such, the claimant's beneficial interest in Otto Wolff likewise cannot validly be considered to have included an interest in any of these subsidiary companies.

For the above-cited reasons, this portion of the claimant's claim must be and it is hereby denied.

With respect to the portion of the present claim based upon the asserted loss of a beneficial interest in the corporation Mansfeld A.G. in Eisleben, the aforementioned French Military Government report states that the Otto Wolff firm owned a substantial portion of the stock in this concern until 1935. However,

the report further states that in 1935, Otto Wolff exchanged those stock shares for 4 million shares in the company Stollberger Zink A.G. fuer Bergbau und Huettenbetrieb in Aachen. Inasmuch as the city of Aachen is located in what is now a part of West Germany, such beneficial interest in the Stollberger Zink concern as would have been held by the claimant could not have been the subject of a nationalization or other taking by the German Democratic Republic. Accordingly, this portion of this claim must also be and it is hereby denied.

With respect to the portion of this claim based upon the loss of ownership interests in the corporations Dolberg A.G. and Blech- und Metallshandel Otto Wolff A.G., the evidence submitted by the claimant indicates that both of these companies were located in what is now West Berlin. Therefore, it would likewise have been impossible for claimant's inherited beneficial interest in either of these companies to have been nationalized or otherwise taken by the German Democratic Republic. Moreover, while it appears from the record that the latter of these companies sustained certain losses in the territory of East Berlin and the German Democratic Republic, it does not appear that the magnitude of the losses was such that it could be considered to have amounted to a _de facto_ nationalization of the company. Accordingly, this portion of the claimant's claim must also be and it is hereby denied.

With respect to the portion of this claim based upon the asserted loss of a beneficial shareholder interest in the Hallesche Roehrenwerke A.G., the record indicates that the extent of the stock in that company which was owned by the Otto Wolff firm amounted only to 42.41%. Inasmuch as claimant's beneficial interest in Otto Wolff, as determined above, amounted to 36.5%, his beneficial interest in the Hallesche Roehrenwerke concern thus amounted only to 15.9%. Furthermore, since the record indicates that claimant's beneficial interest in Otto Wolff had the character of a limited partnership interest, his beneficial interest in the Hallesche Roehrenwerke must be considered to have been an indirect interest.

Section 604(c) of the Act provides:

> "A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation. . . .shall be considered. . . .only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States."

Therefore, inasmuch as the record contains no evidence indicating that any other interests in the Hallesche Roehrenwerke were owned by United States nationals after World War II, and claimant's indirect interest therein amounted only to 15.9%, the Commission is without authority under the Act to consider his claim for the loss of that beneficially owned shareholder interest. Accordingly, this portion of his claim must also be and it is hereby denied.

The Commission also notes that, although not formally claimed by the claimant, the evidence he has submitted includes references to losses sustained by the Otto Wolff firm involving industrial equipment at a supplier's plant in Ilsenburg, various bank accounts certain equipment owned by the Hommelwerke G.m.b.H. in Mannheim (West Germany) which was appropriated by the Soviet Occupation Army and removed from a site in East Berlin, the assets of a corporation known as the Industriefinanzierung A.G. in East Berlin, and equipment owned by the corporation Eisenwerk Fraulautern A.G. in Saarlouis-Fraulautern (West Germany) which was located in Thale. However, it cannot be concluded from the record that any of these losses occurred as a result of nationalization or other taking by the German Democratic Republic. Furthermore, with respect to the assets of the Industriefinanzierung A.G., the evidence indicates that the extent of ownership of the Otto Wolff firm in that company amounted only to 10.5%. Thus, claimant's indirect beneficial interest in this company would also be insufficient to meet the requirement of section 604(c) of the Act, above quoted. In addition, inasmuch as the Hommelwerke and Fraulautern companies are located in what is now West Germany, and the record does not indicate that the losses sustained by

them in the territory of the German Democratic Republic were of such magnitude that they could be considered to have amounted to a de facto nationalization of the companies, a claim for those losses cannot be favorably considered.

For the above-cited reasons, this portion of the claimant's claim must also be and it is hereby denied.

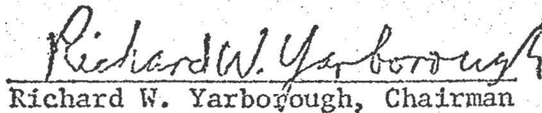
The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L.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

AWARD

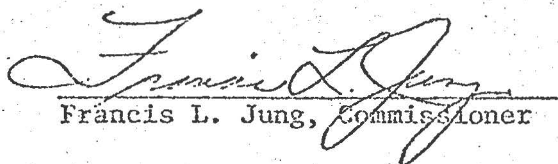
Claimant ULRICH STRAUSS, is therefore entitled to an award in a total amount of Ninety-Six Thousand One Hundred Dollars ($96,100.00), consisting of $87,600.00 plus interest at the rate of 6% simple interest per annum from December 31, 1946, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic, and $8,500.00 plus interest at the rate of 6% simple interest per annum from September 6, 1951, 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.

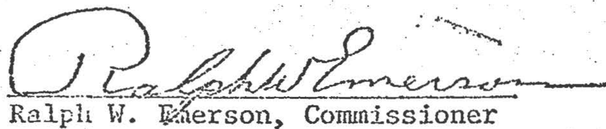
FEB 25 1981



Richard W. Yarborough, Chairman



Francis L. Jung, Commissioner



Ralph W. Emerson, 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.)