

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

IN THE MATTER OF THE CLAIM OF

JOSEPH GRUSS
EMANUEL GRUSS
REGINA GRUSS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0843

Decision No. G-0295

Counsel for claimants: Philip Gruss, Esquire

Appeal and objection from a Proposed Decision entered on
January 3, 1979. No Oral Hearing Requested.

Hearing on the Record held on **AUG 6 1980**

FINAL DECISION

This claim in the amount of \$2,048,000.00 against the Govern-
ment 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 rental
income derived from three apartment houses located in Lvov, Soviet
Union, and the loss of the assets of two banks, one of which was
located in Lvov, and the other in Warsaw, Poland.

Section 603 of Title VI of the Act limits the Commission's
jurisdiction as follows:

"A claim shall not be favorably considered under
section 602 of this title unless the property right on
which it is based was owned, wholly or partially, directly
or indirectly, by a national of the United States on the
date of loss, and if favorably considered, the claim shall
be considered only if it has been held by one or more
nationals of the United States continuously from the date
that the loss occurred until the date of filing with the
Commission."

The record indicates that claimants became United States
citizens on the following dates: JOSEPH GRUSS, on March 22, 1948;
EMANUEL GRUSS, on February 19, 1944; and REGINA GRUSS, on May 20,
1946.

In its Proposed Decision, issued on January 3, 1979, the Commission denied this claim on the grounds that the subject property was lost in the Soviet Union and Poland and was not, therefore, the subject of a taking by the German Democratic Republic as required for a claim to be found compensable under the Act.

In objecting to the Proposed Decision, the claimants assert that the assets of the two banks located in Lvov and Warsaw were confiscated by Nazi authorities in 1941 and transferred to Berlin, where they were subsequently taken over by the Government of the German Democratic Republic after World War II. Additional evidence has been submitted indicating that an account of the Lvov bank, which had been established at the Deutsche Bank in Berlin, was confiscated pursuant to a Government order issued on December 2, 1941 and its assets transferred to an account of the "General Trust Agency for the East, Special Section Old Reich," located at the Reichskreditgesellschaft in Berlin. Correspondence from the Deutsche Bank dated January 31, 1942 indicates that the last of the assets in its account - a 1,000 reichsmark government bond - had been transferred to the Reichskreditgesellschaft. Claimants assert that, by implication, the assets of the Warsaw bank must also have been so confiscated around the same time. Since none of the claimants were United States citizens in December 1941 or January 1942, any claim based upon the loss of the assets of the claimants' two banks at that time may not be favorably considered by the Commission if for no other reason than that the subject property was not owned by United States citizens at that time.

The record contains no evidence of the total value of the assets of the Lvov bank that were deposited at the Reichskreditgesellschaft, nor is there any evidence to indicate that a separate identifiable account was established for the assets of either the Lvov bank or the Warsaw bank. Rather, the confiscation order of December 2, 1941 provided for the confiscation of the Lvov bank's accounts at the Deutsche Bank "on behalf of the German Reich," and the transfer of its assets to the aforementioned Government account at the Reichskreditgesellschaft. On the basis of the entire record, the Commission concludes that the subject assets

were deposited into a collective account at the Reichskreditgesellschaft rather than being segregated in a separate account. The evidence of record does not indicate that any assets that might have been deposited at the Reichskreditgesellschaft in 1941 and 1942 would have been identifiable or even in existence at the end of World War II in 1945. Therefore, the Commission finds that the assets of the Lvov and Warsaw banks claimed for herein were lost pursuant to Nazi measures during World War II and not "as a result of the nationalization, expropriation or other taking" by the German Democratic Republic, as required for a claim to be found compensable under section 602 of the Act.

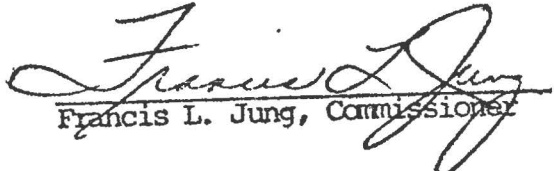
The claimants have submitted no additional evidence with regard to the loss of rental income derived from three apartment houses located in Lvov, Soviet Union. The Commission finds no basis, therefore, to alter its Proposed Decision with regard to this part of the claim.

Accordingly, it is ordered that the Proposed Decision be and it hereby is affirmed.

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


Richard W. Yarborough, Chairman

AUG 6 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 6 1980


Executive Director

At any time after a 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.)

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Counsel for Claimants: Philip Gruss, Esquire

PROPOSED DECISION

This claim in the asserted amount of \$2,048,000.00 against the Government of the German Democratic Republic, under Title VI of The International Claims Settlement Act of 1949, as amended, is based upon the loss of rental income derived from three apartment houses located in Lvov, Soviet Union, and the loss of two banks, one of which was located in Lvov, and the other in Warsaw, Poland.

Under section 602, Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), 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. . ."

To be compensable under the Act, certain conditions must be met. The statute requires that the loss must have occurred in the German Democratic Republic or in East Berlin. Additionally, the loss must be the responsibility of the German Democratic Republic. The losses for which claim is made herein relate to property located in the Soviet Union and Poland.

Therefore the property not being located in the German Democratic Republic or in East Berlin and the nationalization

thereof not being the responsibility of that government, the claim under the present act must be and it hereby is denied.

The Commission finds it unnecessary to make determinations concerning any other elements of this claim.

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

JAN 03 1979

Richard H. ...
Chairman

Wilfred J. Smith, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if not 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.)