

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

IN THE MATTER OF THE CLAIM OF

ERNEST FREIBERG
BETTY FREIBERG

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0900

Decision No. G-0980

PROPOSED DECISION

This claim in the amount of 90,000 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), is based upon the loss of unimproved real property and three bank accounts in Sangerhausen.

The record indicates that claimant, ERNEST FREIBERG, became a United States citizen on May 25, 1937 and that claimant, BETTY FREIBERG, became a United States citizen on February 10, 1931.

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. . ."

In their jointly filed War Claim #W-3735, it was established that the claimants were the co-owners of the unimproved real property claimed for herein. The Commission determined that this property was located in an area that came under communist control at the end of World War II, that the property was never restored to its owners, and that claimants, therefore, sustained a loss of

real property as a result "special measures" within the meaning of section 202(a) of Title II of the War Claims Act of 1948, as amended by Public Law 87-846. The Commission determined that the property had a value of \$1,700.00 and made an award to each of the claimants in the amount of \$850.00.

Section 605 of Public Law 94-542 provides that:

"In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under Section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title."

In their War Claim #W-3735, claimants received an award equal to the total value of the property as determined by the Commission. No evidence has been received indicating that the property was worth more than the amount of that award. Thus, the Commission concludes that the claimants have been compensated in full for the loss of their unimproved real property in Sangerhausen. This part of the claim, therefore, must be and hereby is denied. Since claimant, BETTY FREIBERG, has not asserted the loss of any additional property interests, her claim is denied in its entirety.

The evidence of record indicates that claimant, ERNEST FREIBERG, had two bank accounts in Sangerhausen as of May 8, 1945. Postwar correspondence from the Deutsche Notenbank lists them as account #58514 at the Kreissparkasse Sangerhausen, with a balance of 964 reichsmarks, and account #3875 at the Bankverein Artern, Sproengerts Buechner & Company, A.G., Filiale Sangerhausen, with a balance of 17,350 reichsmarks. A letter from the Kreissparkasse Sangerhausen, dated February 18, 1948, indicates that the balance of account #58514 had increased as of January 1, 1948 to 1,065.03 reichsmarks. Claimant asserts that he has had no access to the money in these two accounts since the end of World War II.

The Commission concludes that claimant, ERNEST FREIBERG, had 18,314 reichsmarks deposited in two bank accounts as of May 8, 1945, which sum had increased to 18,415.03 reichsmarks by January 1, 1948. In 1948, pursuant to a currency reform, claimant's accounts totalling 18,415.03 reichsmarks would have been converted at a rate of 10 reichsmarks to one ostmark into a total of 1,842 ostmarks.

Based upon the entire record, the Commission finds that these accounts came under the purview of the "Decree on the Administration and Protection of Foreign Property in the German Democratic Republic" dated September 6, 1951. The Commission has held that implementation of the provisions of that decree constitutes a taking as defined by section 602 of the Act, which, absent more specific evidence, will be considered to have occurred on August 11, 1952, the date of the first implementing regulation and that, in determining an award, 4.2 ostmarks equalled one dollar in 1952. (Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221). Claimant, ERNEST FREIBERG, is therefore entitled to an award of \$438.57 for the loss of these two bank accounts.

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)).

Claimant, ERNEST FREIBERG, also asserts the loss of bank accounts at the Commerz- und Privat-Bank Aktiengesellschaft, Filiale Sangerhausen, and at the Dresdner Bank, Filiale Sangerhausen. The evidence of record, however, does not establish that the account at the Commerz- und Privat-Bank survived World War II or that the account at the Dresdner Bank ever existed.

The Regulations of the Commission provide:

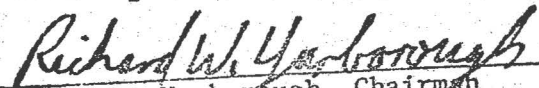
"The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of its claim.
(FCSC Reg., 45 C.F.R. 531.6 (d) (1977)).

By letters dated October 26, 1978 and May 16, 1979, claimant was requested to submit documentation and information with regard to these accounts. Although claimant responded to these letters, no such evidence was submitted.

Therefore, the Commission finds that claimant, ERNEST FREIBERG, has failed to meet the burden of proof and that he has not submitted evidence to establish that he owned bank accounts at the Commerz- und Privat-Bank Aktiengesellschaft, Filiale Sangerhausen, or the Dresdner Bank, Filiale Sangerhausen, which were taken by the German Democratic Republic as required for compensation under section 602 of the Act. This part of the claim, therefore, must be and hereby is denied.

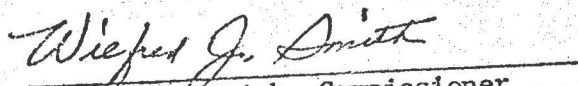
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Claimant, ERNEST FREIBERG, is therefore entitled to an award in the amount of \$438.57 (Four Hundred Thirty Eight Dollars and Fifty-seven cents) plus interest at the rate of 6% simple interest per annum from August 11, 1952 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

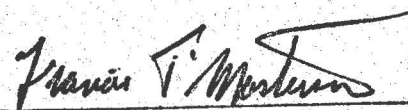

Richard W. Yarborough, Chairman

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

JUL 11 1979


Wilfred J. Smith, Commissioner

This is a true and correct copy of the decision
the Commission which was entered as the final
decision on AUG 15 1979


Executive Director

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).