

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

IN THE MATTER OF THE CLAIM OF

CHARLOTTE ARNER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-3748

Decision No. G-2855

Counsel for claimant: Werner Galleski, Esquire

Hearing on the Record held on **MAY 13 1981**

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AMENDED FINAL DECISION

This claim in an unstated amount 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 real property at Schillingstrasse 14/16, Marsiliustrasse 4/6, and Blankenfelderstrasse 9 in East Berlin, as well as interests in various companies located in different parts of Germany.

In its Proposed Decision, issued on January 7, 1981, the Commission found that the subject real properties in Berlin were owned before World War II by "Hahnsche Werke," a company in which claimant's mother, Charlotte Beate Hahn, held a 7.947% interest. The Commission held that the interest claimant's mother held in these properties was taken by the German Democratic Republic as of December 18, 1951 and that the value of the real property (on which most of the improvements had been destroyed during World War II) was \$240,000.00 at the time of taking. The 7.947% interest held by Charlotte Beate Hahn, therefore, was held to be worth \$19,072.80 and the Commission granted the claimant herein an award of \$9,536.40 as the successor in interest to 1/2 of her mother's estate. No additional award was granted for the interests in various companies located in different parts of Germany--assertedly

owned by "Hahnsche Werke" prior to World War II--since Charlotte Beate Hahn would have held indirect ownership interests therein and it could not be established that 25% of the shares of these companies were owned by United States nationals on the date of loss, as required for compensation under section 604(c) of the Act.

No Objection was filed to the Proposed Decision, which was therefore entered as the Commission's Final Decision on February 11, 1981.

The Commission notes, however, that another claim involving additional interests in the properties involved herein was filed by WILLIAM M. SABERSKY, OLGA L. SABERSKY, ROLF H. SABERSKY, and on behalf of the TRUST UNDER THE WILL OF ROBERT E. EISNER (Claim No. G-1357, Decision No. G-3035). An Objection was filed to the Proposed Decision in that claim with regard to the valuation of the East Berlin properties. Upon reconsideration of all the evidence of record in that claim, the Commission determined that the subject real property at Schillingstrasse 14/16, Marsiliusstrasse 4/6, and Blankenfelderstrasse 9 had a total value of \$360,000.00 at the time of taking by the German Democratic Republic in 1951.

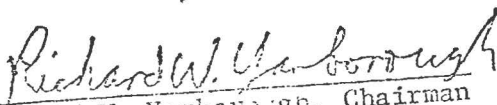
In view of this new finding, the Commission hereby reopens the instant claim on its own motion. Since the value of the real property has been determined in the amount of \$360,000.00, the 7.947% interest therein held by claimant's mother at the time of taking was worth \$28,609.20. The 1/2 interest therein subsequently inherited by the instant claimant, therefore, has a value of \$14,304.60. The Commission therefore withdraws the award of \$9,536.40 originally granted to the claimant and hereby substitutes an award of \$14,304.60 as its final determination of this claim.

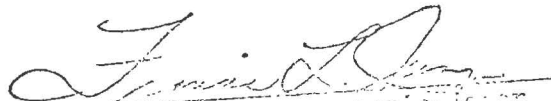
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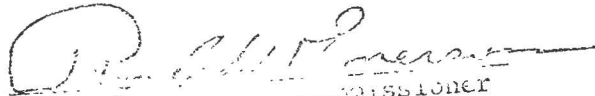
Claimant, CHARLOTTE ARNER, is therefore entitled to an award in the amount of Fourteen Thousand Three Hundred Four Dollars and Sixty Cents (\$14,304.60) plus interest at the rate of 6% simple interest per annum from December 18, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

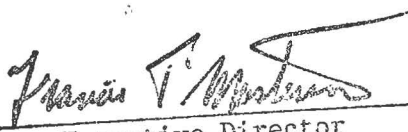
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Richard W. Yarborough, Chairman

  
Francis L. Jung, Commissioner

  
Ralph W. Anderson, Commissioner

This is a true and correct copy of the decision  
the Commission which was entered as the final  
decision on MAY 13 1981

  
Executive Director

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

IN THE MATTER OF THE CLAIM OF

CHARLOTTE ARNER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-3748

Decision No. G-2855

Counsel for Claimant:

Werner Galleski, Esquire

PROPOSED DECISION

This claim in an unstated amount 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 improved real property in East Berlin and various companies in different parts of Germany that were owned wholly or partially by a firm called "Hahnsche Werke."

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 record indicates that claimant became a United States citizen on April 29, 1947 and that she is the successor in interest to one-half of the estate of her mother, Charlotte Beate Hahn, who acquired United States citizenship on December 8, 1944 and died in 1970.

The record also indicates that the successor in interest to the other one-half of the estate of Charlotte Beate Hahn was the claimant's sister, Cornelia Oberlander. Cornelia Oberlander acquired United States citizenship by naturalization on December 12, 1944, but was subsequently expatriated on January 5, 1961, pursuant to provisions of the nationality law in effect at that time. Although the constitutionality of these provisions requiring the expatriation of Cornelia Oberlander were later called into question by the Supreme Court, it is the Commission's understanding that United States citizenship was not automatically restored to persons hitherto expatriated. Rather, expatriates had to take some affirmative action to reacquire United States citizenship. In the case of Cornelia Oberlander, however, the record indicates only that she is a Canadian citizen at the present time and contains no evidence that she ever applied for reinstatement as a United States citizen or that she currently possesses United States citizenship. The Commission concludes therefore, that Cornelia Oberlander is not a United States citizen, as required for compensation under section 602 of the Act. Accordingly, the Commission does not join Cornelia Oberlander in this claim.

In the War Claim of Charlotte Beate Hahn, Claim No. W-18371 Decision No. W-21255, filed under Title II of the War Claims Act of 1948, as amended by Public Law 87-846, the Commission determined that claimant's mother held a 7.947% ownership interest in "Hahnsche Werke" before World War II. The Commission also determined that "Hahnsche Werke" owned a complex of office and residential buildings in Berlin located at Schillingstrasse 14/16, Marsiliusstrasse 4/6, and Blankenfelderstrasse 9.

The record in this claim indicates that legal title to the subject property was originally lost during the Nazi regime as a result of racial and religious persecution. The Commission has held in the Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G-1071, that such persecutory losses will not be considered by the Commission to have cut off all rights of the original owners or their heirs, and that the persecuted owners retained a beneficial interest in the property.

The Commission has also held in the Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G-1073, 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 the 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 finds therefore, that the beneficial interests retained by claimant's mother, Charlotte Beate Hahn, in the subject real properties on Schillingstrasse, Marsiliusstrasse, and Blankenfelderstrasse in East Berlin were taken by the German Democratic Republic as of December 18, 1951, at which time they were owned by a United States national, as required for compensation under the Act.

In determining the values of the subject real property interests, the Commission has considered such evidence as their pre-war Einheitswerte (tax assessment values), the types of improvements located on the properties before World War II, and the extent of the damage they sustained during the war. In the aforementioned War Claim of Charlotte Beate Hahn, the Commission determined that the improvements at Schillingstrasse 14/16 and at Marsiliusstrasse 4/6 were 80% destroyed in the war, while the building at Blankenfelderstrasse 9 was completely destroyed. Based upon all the evidence of record, the Commission determines that the land and undamaged portion of the buildings located at the above addresses in East Berlin had a total value of \$240,000.00 at the time of taking by the German Democratic Republic in 1951. The value of Charlotte Beate Hahn's beneficial interests in the property,

as a 7.947% owner of "Hahnsche Werke" was \$19,072.80. Claimant is therefore entitled to an award of \$9,536.40 for her one-half interest in her mother's estate.

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)).

Additional parts of this claim are based upon ownership interests held by "Hahnsche Werke" in various companies with assets assertedly located in the German Democratic Republic. Claimant lists these ownership interests of "Hahnsche Werke" as follows:

1. a 55 1/2% interest in the Albert Mund von Goelln Company of Magdeburg,
2. a 100% interest in Richard Weber & Co. of Berlin,
3. a 52.12% interest in the Franz Seiffert Company of Berlin,
4. a 42% interest in the Kammerichwerke Company of Bielefeld,
5. a 42% interest in the Hochofenwerk Luebeck Company of Herrenwyk.

Section 604(c) of the statute provides that:

"A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation association, or other entity, shall be considered, subject to the other provisions of this title 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."

The Commission finds that any ownership interest or beneficial interest of claimant in the companies listed above would be an indirect ownership interest, and under section 604(c) of the Act the Commission may consider a claim for the loss of such indirect ownership interest only if at least 25% of the shares of these companies were owned by United States nationals on the date of loss. No evidence has been submitted to establish that any of these companies were owned to extent of 25% by United States

nationals and the Commission finds, therefore, that the ownership requirements of section 604(c) have not been satisfied. Thus, the parts of this claim based upon the indirect ownership interests in the aforementioned companies must be denied.

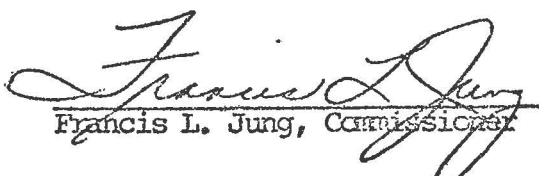
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Claimant, CHARLOTTE ARNER, is therefore entitled to an award in the amount of Nine Thousand Five Hundred Thirty-Six Dollars and Forty Cents (\$9,536.40) plus interest at the rate of 6% simple interest per annum from December 18, 1951 until the date 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.

JAN 7 1981

  
Richard W. Yarborough, Chairman

  
Francis L. Jung, Commissioner

NOTICE: Pursuant to the 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.)