

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

IN THE MATTER OF THE CLAIM OF

JOHN HORST KUEHNE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-3878

Decision No. G-2347

Appeal and objection from a Proposed Decision entered on June 18, 1980. No Oral Hearing Requested.

Hearing on the Record held on March 4, 1981

FINAL DECISION

This claim in the amount of \$2,184.00 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 bank account at the Saechsische Landeskreditbank in Dresden.

By Proposed Decision issued on June 18, 1980, the Commission denied this claim on the ground that the claim was filed after the expiration of the filing period, so that the Commission, under Public Law 94-542, was not authorized to grant an award.

In the Proposed Decision, the Commission further stated that if the claim had been timely filed it would have been found compensable. By letter dated July 1, 1980, claimant objected to the Proposed Decision of the Commission on the basis that he was under the impression that his name was on file for an East German Claims program based on his having completed several forms for various agencies of the United States government, and that such completion of forms ought to have given the Commission notice of his claim, and further, that he should have therefore been directly contacted with regard to filing for the present claims program.

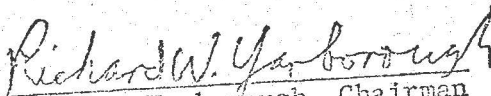
The Commission undertook an extensive publicity campaign to notify the public of this program. As part of this effort, the Commission sent written notice to individuals who had previously notified the Commission or the Department of State of their interest in a possible claim. The Commission attempted to contact claimant as early as 1963 only to discover his past address was no longer his address and the Commission was unable to discover, nor did claimant inform the Commission of a new address.

The authority of the Commission is limited to that given by Congress under Public Law 94-542, as set forth in the Proposed Decision. The statute requires the filing of claims by May 16, 1978. No issues are presented beyond that the claim was not filed until after the deadline, therefore the statute prevents the Commission from finding the claim compensable.

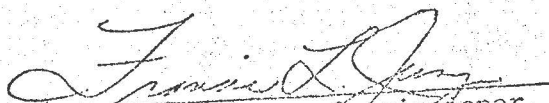
The Commission hereby affirms its denial of this claim as its Final Decision.

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

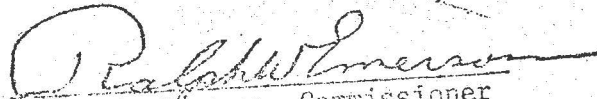
MAR 4 1981


Richard W. Yarborough, Chairman

This is a true and correct copy of the decision
the Commission which was entered as the final
decision on MAR 4 1981


Francis L. Jung, Commissioner


Executive Director


Ralph W. Emerson, Commissioner

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PROPOSED DECISION

This claim in the amount of \$2,184.00 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 bank account at the Saechsische Landeskreditbank in Dresden.

The record indicates that claimant became a United States citizen on January 15, 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. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later" (emphasis added).

The period for the filing of claims under the statute commenced on May 16, 1977 and closed twelve months later on May 16, 1978. Thus, the filing period extended for the maximum time--twelve months--allowed under Public Law 94-542. The subject claim, however, was dated August 15, 1979 and received at the Commission on August 23, 1979. Since the one year filing period provided under the statute had already expired, this claim was not timely filed. Under Public Law 94-542, therefore, the Commission is not authorized to grant an award.

Based upon the evidence of record, the Commission finds that this claim would have been compensable if it had been timely filed. The record indicates that a bank account in the claimant's name was established on September 1, 1942 at the Commerzbank in Dresden, which by December 31, 1946 had a balance of 3,996.70 reichsmarks. This account was subsequently transferred in 1947 to the Saechsische Landeskreditbank in Dresden and in 1950 to the Deutsche Notenbank in Dresden. Pursuant to the East German currency reform of 1948, claimant's account of 3,996.70 reichsmarks would have been converted at a rate of ten reichsmarks to one ostmark into an account of 399.67 ostmarks. In the Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221, the Commission held that this conversion of reichsmarks to ostmarks at a ten to one ratio does not give rise to a claim under international law. Based upon the entire record, however, the Commission also holds that this account came under the purview of the "Decree on the Administration and Protection of Foreign Property in the German Democratic Republic" of September 6, 1951. In the aforementioned Claim of OLGA LOEFFLER, the Commission held that implementation of the provisions of that decree constitutes a taking as defined by section 602 of the Act, that the taking will be considered to have occurred, absent more specific evidence, on August 11, 1952, the date of the first implementing regulation, and that 4.2 ostmarks equalled one dollar in 1952. The Commission finds,

therefore, that claimant's bank account had a value of \$95.16 at the time of taking in 1952, and that claimant would have been entitled to an award in that amount if this claim had been timely filed. Since the claim did not meet the filing deadline, however, the Commission is not authorized under Public Law 94-542 to grant an award.

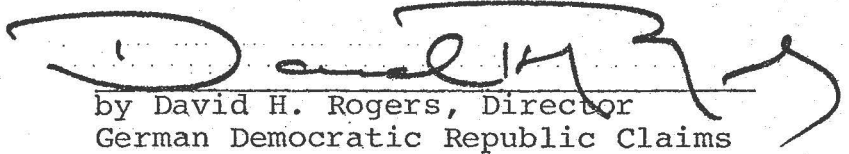
For the above cited reason, the claim must be and hereby is denied.

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.

JUN 18 1980

For Presentation to the Commission


by David H. Rogers, Director
German Democratic Republic Claims
Division

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, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission any time after the expiration of the 30 day period following such service or receipt of notice. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)