

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

IN THE MATTER OF THE CLAIM OF

A. EMMETT McCRANN

Claim No. CU-1103

Decision No. CU

305

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Rembar & Zolotar

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by A. EMMETT McCRANN in the amount of \$15,000.00 based upon the asserted loss of funds collected on a draft by the Banco Gelats in Cuba. Claimant, A. EMMETT McCRANN has been a United States national since his birth on May 22, 1906 in Leominster, Massachusetts.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention 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.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant states that, through his attorneys, he caused a draft in the sum of 15,000 pesos payable to claimant and drawn upon Ferrocarriles Consolidados de Cuba (Consolidated Railroads of Cuba) to be forwarded by Bankers Trust Company, New York, New York, to its correspondent, Banco Gelats, Havana, Cuba for collection. The record includes a letter from Bankers Trust Company dated August 9, 1960, addressed to claimant's attorneys, attention their special account, indicating that \$15,000.00 had been collected from the Ferrocarriles Consolidados de Cuba, and that the bank was completing the formalities for the presentation of the reimbursement application to Banco Nacional de Cuba. Claimant states that he has not received the funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded transfers of funds, in this and similar cases, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See The Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019.)

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the loss occurred on August 10, 1960, as to \$15,000.00 the day after the collection was acknowledged by the Bankers Trust Company.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

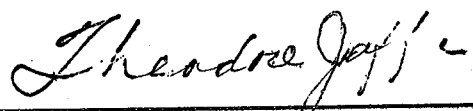
CERTIFICATION OF LOSS

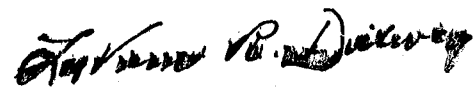
The Commission certifies that A. EMMETT McCRANN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifteen Thousand Dollars (\$15,000.00) with interest thereon at 6% per annum from the date of loss to the date of settlement.

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

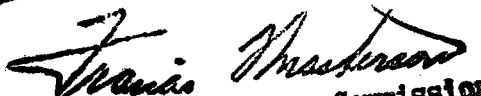
SEP 20 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner

CERTIFICATION
is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 20 OCT 1967


Francis Masterson
Clerk of the Commission

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, 32 Fed. Reg. 412-13 (1967).)