

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

IN THE MATTER OF THE CLAIM OF

JAMES A. MARTIN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1354

Decision No. CU-770

AMENDED PROPOSED DECISION

By Proposed Decision issued November 30, 1967, the Commission denied this claim for failure of proof. Since then, satisfactory evidence has been submitted, and the Proposed Decision is hereby amended.

Claimant, JAMES A. MARTIN, who owned a stock interest in the Trans-Cuba Oil Company, asserts a claim in the amount of \$1,026.50 under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of D. R. Wimberly (Claim No. CU-3417 which we incorporate herein by reference), we held that the properties owned or controlled by the Company were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$0.1198.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Wimberly decision; that he was an American national at the requisite times; that he has been the owner of 500 shares of stock in the Trans-Cuba Oil Company since prior to November 23, 1959; and that he suffered a loss in the amount of \$59.90 within the meaning of Title V of the Act. Further, the Commission finds that the

amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from November 23, 1959, the date of loss, to the date on which provisions are made for the settlement thereof. (See Wimberly, supra.)


Accordingly the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

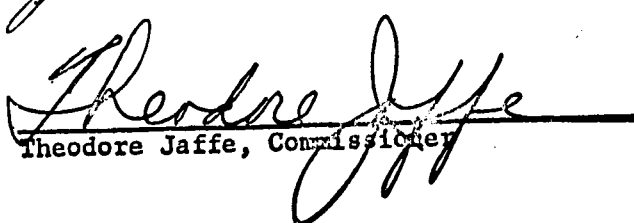
CERTIFICATION OF LOSS

The Commission certifies that JAMES A. MARTIN 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 Fifty-nine Dollars and Ninety Cents (\$59.90) with interest at 6% per annum from November 23, 1959 to the date of settlement.

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

SEP 16 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended 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).)

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

IN THE MATTER OF THE CLAIM OF

JAMES A. MARTIN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 1354

Decision No. CU **770**

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,504.50, was presented by JAMES A. MARTIN based upon the asserted loss of a stock interest in United Cuban Oil Co., Inc. and in Trans Cuban Oil Company. Claimant states that he has been a national of the United States since his birth in the United States.

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(1) of the Act defines the term "national of the United States" as "(B) a corporation or other legal entity which is organized

under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

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 his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

A portion of this claim is based upon the loss of a stock interest in United Cuban Oil, Co., Inc. An independent investigation by the Commission has disclosed that United Cuban Oil, Co., Inc., was incorporated in the State of Delaware. The president of the United Cuban Oil, Co., Inc., has informed the Commission that over 50 per centum of the capital stock of said corporation is owned by United States citizens, which would qualify it as a United States national within the purview of Section 502(1)(B) of the Act.

Section 505(a) of the Act provides that

"A claim under section 503(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered . . . ."

The Commission concludes that since this portion of the claim is based on a stock interest in a corporation which qualifies as a United States national, the Commission is precluded, under Section 505(a) of the Act from considering this claim. Accordingly, it is hereby denied. (See the Claim of Mary F. Sonnenberg, FCSC Claim No. CU-0014.)

The remaining portion of the claim is based upon the loss of a stock interest in Trans Cuban Oil Company. Other than his own statements claimant has submitted no evidence in support of this claim. By Commission letter, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence was submitted.


On September 7, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. Claimant responded on September 18, 1967 and asked to be advised again of the type of evidence necessary to establish his claim. By Commission letter of September 29, 1967 suggestions were made to claimant concerning the submission of supporting evidence in this claim. Claimant was further advised that absent such evidence within 30 days from that date, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

CU-1354

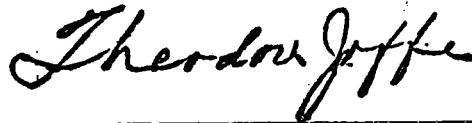
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

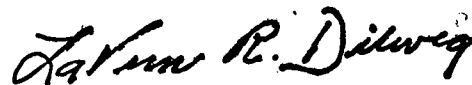
30 NOV 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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CU- 1354