

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

IN THE MATTER OF THE CLAIM OF

FLORIDA MICRO COMMUNICATIONS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. **CU-1759**

Decision No. **CU-377**

Counsel for claimant:

Devitt, Friedrich & Scott
by James H. Carroll, Esq.

Appeal and objections from a Proposed Decision issued October 4, 1967.
No oral hearing requested; hearing on the record.

Hearing on the record held on January 3, 1968

FINAL DECISION

Under date of October 4, 1967, the Commission issued its Proposed Decision, denying this claim for failure of proof in that claimant failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Moreover, claimant failed to establish its qualification as a national of the United States within the meaning of the Act.

By letter of October 9, 1967, claimant filed objections to the Proposed Decision, and submitted photocopies of various items of correspondence between the Federal Communications Commission and the claimant.

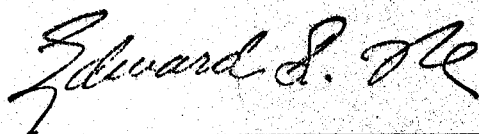
The Commission has reviewed and examined all of the evidence of record, and finds that the evidence of record is of insufficient probative value to warrant a different determination from that made in the Proposed Decision.

Full consideration having been given to the objections of claimant,
and the entire record, including such objections, having been reviewed,
it is

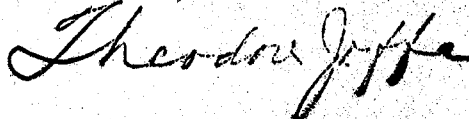
ORDERED that the Proposed Decision be, and the same is, affirmed
as the Final Decision of the Commission in this claim.

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

JAN 10 1968



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

For the Commission, Secretary

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by: J. Clinton Scott, Esq.

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 \$735,500.00, was presented by FLORIDA MICRO COMMUNICATIONS, INC. and is based upon the asserted ownership and loss of certain real and personal property and upon the asserted cancellation of certain agreements.

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.

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 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).)

Claimant states that it owned certain real and personal property which were confiscated in Cuba on or about June 1959. Claimant further bases its claim on the asserted loss of certain agreements with Cuban television stations. However, claimant has submitted no documentary evidence to establish its claim.

By Commission letter of June 8, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence has been received to date.

On July 25, 1967, counsel were invited to submit any evidence available to them within 45 days from that date, and they were informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Moreover, claimant has failed to establish its qualifications as a national of the United States within the meaning of the Act.

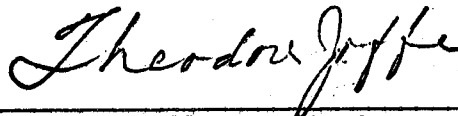
Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

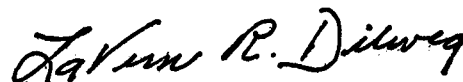
OCT 4 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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. 531.6(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)