

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

IN THE MATTER OF THE CLAIM OF

MIGUEL ALVAREZ NISTAL

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1784

Decision No. CU

1909

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 \$72,000.00, was presented by MIGUEL ALVAREZ NISTAL, and is based upon the asserted loss of 134 shares of stock of Compañia Comercial Arrendadora, S.A., and personal property. Claimant has been a national of the United States since his naturalization on September 5, 1919.

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 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).)

This claim is based upon the asserted ownership and loss by claimant of one hundred and thirty-four shares of stock of Compania Comercial Arrendadora, S.A.; and upon the asserted ownership and loss of personal property which claimant describes as being furniture and personal effects. With respect to that portion of this claim for the asserted ownership and loss of personal property stated to have a value of \$5,000.00, claimant has not submitted evidence establishing his ownership thereof, its taking and its value.

In support of that portion of this claim based upon the asserted ownership and loss of shares of stock of Compania Comercial Arrendadora, S.A., claimant has submitted a copy of a purported Last Will and Testament of Felipe Alvarez Nistal, a photostatic copy of a document entitled "Number Three Hundred and Ninety Two Acceptance and Granting of Deed", and claimant's affidavit dated April 15, 1967. However, claimant has not submitted evidence

establishing that he did in fact acquire a total of 80 shares of stock in Compañia Comercial y Arrendadora, S.A. as a gift in 1950 from his late brother, Felipe Alvarez Nistal; nor has claimant submitted the stock certificates evidencing his interest in the aforesaid Company.

In view of the foregoing, the Commission, in a letter dated July 31, 1967, made certain suggestions as to the type of evidence proper for submission to establish this claim under the Act. This suggested evidence was not received.

On September 14, 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 this claim on the basis of the existing record. The suggested evidence has not been received by the Commission.

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. Accordingly, this claim 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

MAY 22 1968

*Leonard v. B. Dutton*

Leonard v. B. Dutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, 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. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)