

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

IN THE MATTER OF THE CLAIM OF

ANDREWS, POSNER & ROTHSCHILD,
in a representative capacity,
for and in behalf of SAMUEL FRANK.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1812

Decision No. CU 527

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 \$150.00, was presented by ANDREWS, POSNER & ROTHSCHILD, in a representative capacity, for and in behalf of SAMUEL FRANK and is based upon the asserted ownership of 100 shares of stock in Havana Lithographing Company. No evidence or information as to the nationality of Samuel Frank has been submitted.

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).)

ANDREWS, POSNER & ROTHSCHILD, a partnership engaged in the stock brokerage business, states that on April 25, 1961 SAMUEL FRANK purchased 100 shares of stock in Havana Lithographing Company for a gross purchase price of \$150.00, and that said securities have been held by ANDREWS, POSNER & ROTHSCHILD for SAMUEL FRANK's account since the date of purchase. No authorization has been filed with the Commission by SAMUEL FRANK empowering ANDREWS, POSNER & ROTHSCHILD to file this claim in his behalf.

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By Commission letter of July 10, 1967, ANDREWS, POSNER & ROTHSCHILD were requested to forward an enclosed statement of claim (FCSC Form 666) to SAMUEL FRANK for his completion, signature, and transmission to the Commission; moreover, it was suggested that SAMUEL FRANK submit evidence, such as a certified copy of his birth certificate, to establish his United States nationality. ANDREWS, POSNER & ROTHSCHILD were informed that if the suggested evidence were not received within 30 days, it might become necessary to determine this claim on the basis of the present record. Although ANDREWS, POSNER & ROTHSCHILD have subsequently communicated with the Commission and have supplied an affidavit concerning the shares of stock subject of this claim, the suggested evidence has not been received to date.

On September 13, 1967, the Commission communicated directly with SAMUEL FRANK at the address provided by ANDREWS, POSNER & ROTHSCHILD. Mr. Frank was informed that if he wished the Commission to consider his claim based upon an asserted interest in 100 shares of stock in Havana Lithographing Company, he should execute and return to the Commission within 30 days the enclosed statement of claim (FCSC Form 666) and submit evidence to establish his United States nationality. No evidence has since been submitted.

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The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership by a national of the United States of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Further, claimant has failed to submit evidence of their authorization to file this claim in a representative capacity for and in behalf of Samuel Frank. 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 25 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

UNCLASSIFIED

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 4 DEC 1967

Francis W. ...
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).)

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