

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

IN THE MATTER OF THE CLAIM OF

LOUIS P. ZINKE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1857

Decision No. CU

631

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$2,500.00, was presented by Dixie Lee Zinke on behalf of LOUIS P. ZINKE, and is based upon the asserted loss of real property located on the Isle of Pines, Cuba. Claimant asserts 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

1. loss 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 asserts that he was the owner of five parcels of real property, four of which were sold at auction by Cuban authorities on various dates between 1954 and 1958 for alleged non-payment of taxes. The remaining item of real property was sold by the claimant on July 15, 1959 to a third party. Claimant states that the sale of the four parcels by Cuban authorities was in fact a confiscation of his property, made under the guise of tax sales. However, even if such be the case, claimant would not have a compensable claim under the Act, for the following reasons:

In order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the loss of such ownership interest through nationalization or other taking by the Government of Cuba occurred ".....since January 1, 1959, . . .", and prior to the date of filing a claim with the Commission.

Under the provisions of Section 502(3) and 503(a) of the Act, supra, not only should the claimant herein establish that, as of January 1, 1959, he was the owner of the real properties for which claim is asserted; he also must establish that some measure depriving him of his interest therein was applied by the Government of Cuba subsequent to January 1, 1959, and prior to the date on which claimant filed his claim with the Commission. This he has not done.

On the contrary, it is apparent that claimant's loss of four properties occurred years prior to January 1, 1959, and that the

remaining parcel was sold, by claimant, to a third party. Claimant has, therefore, failed to establish his ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba subsequent to January 1, 1959.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of the Act, supra, and it is denied. The Commission deems it unnecessary to make determinations with respect to other elements of this claim.

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

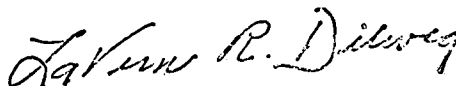
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner



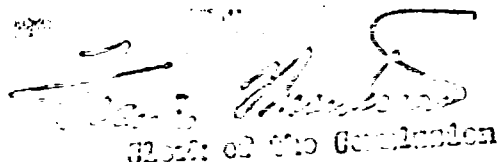
LaVern R. Dilweg, Commissioner

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

CU-1857

COMMUNICATIONS

This is a true and correct copy of the decision of the Commission which was entered as the final decision on JAN 4 1968



Secretary of the Commission