

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

IN THE MATTER OF THE CLAIM OF

ELIZABETH ANN DZIUBAN
MARTHA LOUISE REYES
EMMA JEAN DRISCOLL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2295
Claim No. CU-2518
Claim No. CU-3015
Decision No. CU 966

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in unspecified amounts, were presented by ELIZABETH ANN DZIUBAN, MARTHA LOUISE REYES, and EMMA JEAN DRISCOLL, based upon the asserted loss of interests in a mine located in Cuba.

Claimants ELIZABETH ANN DZIUBAN and EMMA JEAN DRISCOLL have been nationals of the United States since their birth. Claimant MARTHA LOUISE REYES states that she has been a national of the United States since her birth.

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)]⁷, 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).)

Other than their own statements as set forth in the claim forms filed on April 27, 1967, April 28, 1967, and April 28, 1967, respectively, supported by evidence of their birth and similar copies of a boundary plan of a gold mine described as the "Emma G", claimants did not submit probative evidence to establish their claims under the Act. Accordingly, by Commission letters dated August 15, 1967, August 18, 1967 and June 20, 1967, suggestions were made to the respective claimants as to the type of additional evidence proper for submission to establish these claims under the provisions of the Act. No evidence was submitted in reply to these Commission letters.

The record discloses that by letter of September 8, 1967, claimant EMMA JEAN DRISCOLL was invited to submit any evidence available to her within 45 days from that date, and she was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. On September 11, 1967, claimant ELIZABETH ANN DZIUBAN advised the Commission that additional evidence was being sought. In response to

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claimant's request for additional time to submit further evidence, by letter of September 15, 1967, similar extensions of time were granted to ELIZABETH ANN DZIUBAN and MARTHA LOUISE REYES. Other than evidence of the United States birth of claimant MARTHA LOUISE REYES and requests by claimants for assistance by the Commission in obtaining evidence in support of their claims, claimants have not submitted other evidence and information available to them.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, these claims are denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claims.

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

JAN 17 1968

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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

Francis Anderson

NOTICE: Pursuant to the Regulations of the Commission, if ~~any~~ 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).)