

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

IN THE MATTER OF THE CLAIM OF

JOHN BUDAGHER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 2367

Decision No. CU 5096

Counsel for claimant:

Ben F. Roybal, Esq.

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 \$1,022,742.00, was presented by JOHN BUDAGHER and is based upon the asserted loss of mining claims and acreage in Camaguey Province, Cuba. Claimant has been a national of the United States since 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)], 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).)

Claimant has asserted that he owned certain mining claims and land in Camaguey Province, Cuba, which were valued in excess of \$954,882.00. In support of his claim, the claimant submitted various affidavits and a copy of a contract executed in 1955 concerning the proposed acquisition of certain mining concessions, including La Sagrada Familia, La Milagrosa and La Productora.

The Commission considered the evidence of record in this matter and determined that it was insufficient to establish ownership, loss and value of the claimed property. Accordingly, by Commission letter of June 30, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the provisions of the Act.

By letter of July 27, 1967, claimant submitted, through counsel, thirteen 1956 claim applications for mining concessions in Cuba which were signed by persons other than claimant. No evidence was submitted to establish the disposition of the applications or the transfer of same to the claimant. Claimant also submitted a geological report concerning oil deposits in Cuba, as well as additional affidavits and correspondence.

Thereafter, in Commission letters of July 10, 1968 and July 31, 1968, additional suggestions were made to claimant through counsel. By communications of October 23, 1968 and early November, 1968, counsel submitted three additional affidavits concerning ownership of real and personal property. This data, general in nature, with insufficient explanation or supporting evidence, failed to substantiate the claim.


In Commission letters of October 7, 1969, and October 17, 1969, suggestions were again made to claimant, through counsel, concerning the development of this claim. On February 3, 1970, counsel 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 the claim on the basis of the existing record. No evidence has since been submitted.

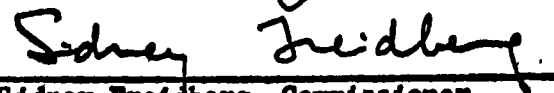
The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. Thus, the Commission finds that claimant herein 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, 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

**JUN 30 1970**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, 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).)