

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

IN THE MATTER OF THE CLAIM OF

GUSTAVO E. MUSTELIER  
PIEDAD L. MUSTELIER

Claim No. CU -3043

Decision No. CU -716

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on  
November 22, 1967;  
No oral hearing requested; Hearing on the record.

Hearing on the record held on March 18, 1970

FINAL DECISION


The Commission issued its Proposed Decision in this claim on November 22, 1967, denying the claim for the reason that claimants failed to establish ownership of rights and interests in property which was nationalized or otherwise taken by the Government of Cuba. Thereafter, claimants objected to the Proposed Decision and submitted additional correspondence concerning the properties, subject of their claim, but have failed to submit supporting information or evidence relating to the ownership, loss and value of the subject properties. The Commission made additional suggestions in letters of September 25, 1968, December 5, 1968, December 1, 1969, and February 3, 1970, toward the submission of evidence in support of this claim. However, claimants have not responded to these letters and have failed to submit supporting information or evidence.

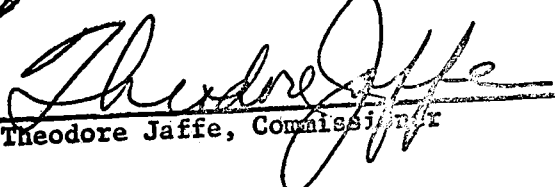
Full consideration having been given to the objections of the claimants and the entire claim and general notice of the Proposed Decision having been given by posting for 30 days, it is

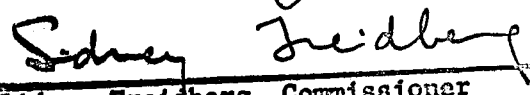
ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

1 APR 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

GUSTAVO E. MUSTELIER  
PIEDAD L. MUSTELIER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 3043

Decision No. CU **716**

Counsel for claimant:

Manuel Zaiac, Esq.

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 \$102,000.00, was presented by GUSTAVO E. MUSTELIER and PIEDAD L. MUSTELIER and is based upon the asserted loss of certain improved real property, an interest in a business, unimproved real property and personal property. Claimant GUSTAVO E. MUSTELIER states that he has been a national of the United States since his birth in Puerto Rico and claimant PIEDAD L. MUSTELIER states that she has been a national of the United States since her marriage on March 19, 1922.

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).)

Claimants state that they were the owners of improved real property and an interest in an export and import business located in Marianao, Cuba, and that they were the owners of certain real property located in Guanabacoa and certain personal property located in Cuba. Claimants state further that all of the subject property was taken by the Government of Cuba.

In support of this claim, claimants submitted a copy of the Cuban Urban Reform Law and Cuban Law No. 989 together with translations. No other evidence has been submitted in this claim.

By Commission letter of July 7, 1967, claimants were advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. No response was received to this correspondence. On August 30, 1967, counsel and claimants were invited.

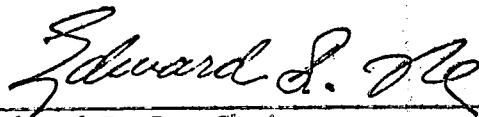
CU-3043

to submit any evidence available to them within forty-five (45) days from that date, and they were 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.

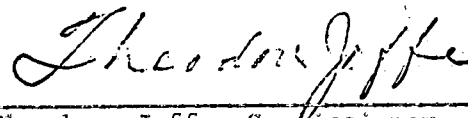
The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is 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

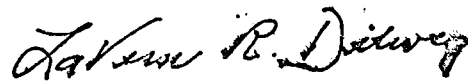
22 NOV 1967



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- 3043