

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

IN THE MATTER OF THE CLAIM OF

EDWARD BRACEY PERKINS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -3402

Decision No. CU -4510

Appeal and objections from a Proposed Decision entered on February 12, 1970.  
Oral hearing requested and cancelled. Hearing on the record.

Hearing on the record held on September 8, 1971.

FINAL DECISION

This claim for \$33,000.00 was based on the contents of a seven-room apartment including furniture, silver and china, paintings, musical scores, theatrical costumes, jewelry, posters and photographs, clothing, stamp and coin collection, manuscript and United States currency. Claim was denied for claimant's failure to establish ownership of the items, their taking by the Government of Cuba and value.

Claimant, a national of the United States since birth, objected to the Proposed Decision and submitted affidavits in support thereof. The entire matter having been re-examined, the Commission finds that for the most part, the aforementioned affidavits are identical as to contents and language. All affiants attest that the value of the lost items totals \$33,000.00; no affiant gives the same of his knowledge; none specify any particular item of personal property lost or its singular value.

The Commission can appreciate the difficulty some claimants experience in documenting their claim. On the other hand the Commission cannot make findings of fact and conclusions of law where the evidence submitted does not warrant such. The uniqueness of the items claimed herein other than the furniture, requires probative evidence of the existence of same and their value. The affidavits submitted, as aforementioned, do not establish this as to any

of the unique items. If probative evidence is received in this respect in sufficient time to permit consideration thereof before the close of the program on June 30, 1972, the Commission will reopen the claim. Such evidence should be received on or before May 1, 1972 in order to permit adequate consideration thereof.

As to the furniture, the Commission finds that claimant was the owner of household furniture which was taken by the Government of Cuba on September 15, 1962. The Commission further finds that at the time of loss said furniture after appropriate depreciation, had a value of \$2,000.00. The Commission concludes that claimant sustained a loss, within the meaning of the Act, in this amount.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case, it is so ordered.

Accordingly the following Certification of Loss will be entered and in all other respects the Proposed Decision, as amended herein, is affirmed.


CERTIFICATION OF LOSS

The Commission certifies that EDWARD BRACEY PERKINS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Dollars (\$2,000.00) with interest at 6% per annum from September 15, 1962 to the date of settlement.

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

SEP 8 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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Claim No. CU-3402

Decision No. CU 4510

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 \$33,000.00, was presented by EDWARD BRACEY PERKINS and is based upon the asserted loss of personal property in Cuba. Claimant stated that he 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 stated that this claim arose on September 15, 1962 when he was denied access to his apartment and that the property consisted of furniture, silver and china, paintings, musical scores, theatrical costumes, jewelry, posters and photographs, clothing, stamp and coin collection, manuscript and United States currency.

By Commission letter of May 20, 1968, claimant was advised by letter to his address of record, as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, the letter was returned, marked "Moved, left no address". An inquiry of the Post Office department elicited the same information.

By letter of June 24, 1969, from the same address, claimant inquired as to the status of his claim. On June 27, 1969, the Commission replied, forwarding copy of the Commission's letter of May 20, 1968. No reply or evidence has since been submitted.

The Commission finds that claimant 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. 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

12 FEB 1970

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

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).)

CU-3402