

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

IN THE MATTER OF THE CLAIM OF

JOSEPH SIXTO PORTU

Claim No. CU -3706

Decision No. CU -587

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered November 1, 1967;
No oral hearing requested; hearing on the record.

Hearing on the record held on February 12, 1968.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on November 1, 1967, in denial of the claim for the reason that claimant had failed to establish ownership of rights and interests in property which was nationalized or otherwise taken by the Government of Cuba. Claimant, JOSEPH SIXTO PORTU, submitted a letter of objections to the Proposed Decision on November 7, 1967, but has submitted no evidence of probative value in support of this claim.


Full consideration having been given to the objections of the claimant, and the entire record, including claimant's objections,

having been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

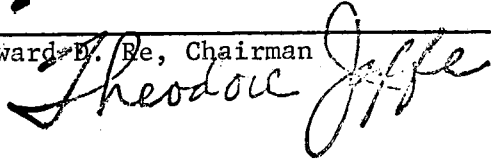
ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

FEB 21 1968



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

CU-3706

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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 \$98,000.00, was presented by JOSEPH SIXTO PORTU, and is based upon the asserted ownership and loss of real property and personal property, including houses, land, bank account and a business enterprise, located in Caibarien, Cuba. Claimant has been a national of the United States since his naturalization on June 30, 1937.

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. 938 (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 of 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 asserts that his father died on February 23, 1962, leaving an estate, including a claim for loss of real and personal property in Cuba, which had assertedly been nationalized or otherwise taken by the Government of Cuba. However, claimant has submitted no documentary evidence in support of his claim. By Commission letter of July 7, 1967, claimant was advised as to the type of evidence proper for submission to establish his claim under the Act, including data on the ownership, loss and value of the property, subject of the claim, and data concerning the nationality of his late parents. Claimant responded to the correspondence of the Commission by letter of July 28, 1967, but submitted no supporting information or evidence.

In letter of August 8, 1967, the Commission made additional suggestions to the claimant; and in Commission letter of September 7, 1967, claimant was invited to submit any evidence he might have 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 present record.

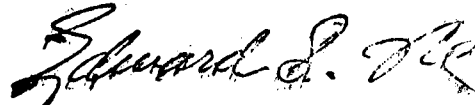
Claimant responded to the Commission correspondence of above dates by letter of September 25, 1967, stating that he preferred to defer the submission of evidence at this time. Thereafter, in Commission letter of

September 28, 1967, additional suggestions were made to claimant, especially with respect to the timely completion of the Cuban Claims Program and the submission of evidence in accordance with such completion and availability to the claimant. However, no additional evidence has been submitted.

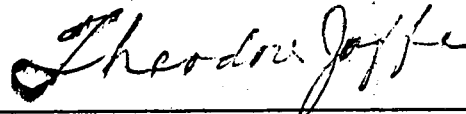
The Commission is constrained to find that claimant has not met the burden of proof, in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

NOV 1 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-3706