

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

IN THE MATTER OF THE CLAIM OF

DANIEL CHAVEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-4815

Decision No. CU-1092

AMENDED PROPOSED DECISION

Under date of January 31, 1968, the Commission issued its Proposed Decision denying this claim for claimant's failure to establish ownership by a United States national of property having a certain value, which was nationalized, expropriated or otherwise taken by the Government of Cuba.

Subsequently, claimant submitted further evidence, including a copy of his birth certificate, establishing that claimant has been a national of the United States since birth. Upon consideration of this matter, it is

ORDERED that the Proposed Decision be and it is hereby amended as follows:

The record reflects that claimant was employed as a missionary at the Antillian College (Colegio de las Antillas) in Santa Clara, Las Villas, Cuba, from September, 1959, to January, 1961, by the General Conference of Seventh-day Adventists. He contends that his personal property was left behind when he left Cuba on or about January 2, 1961. He has been residing in the United States since that time.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The Commission finds that claimant was the owner of certain personal property consisting of furniture, furnishings and other personalty; and that, in the absence of evidence to the contrary, the subject personal property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

Claimant has supplied a detailed listing of the personal property for which he claims \$4,000.00, after depreciation. After consideration of the values ascribed to the listing, the Commission finds that the amount of \$4,000. is a fair and reasonable value. Accordingly, it is concluded that claimant suffered a loss in the amount of \$4,000. within the meaning of Title V of the Act as a result of the taking of his personal property by the Government of Cuba.

The Commission has decided that in certification of losses 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.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the December 6, 1961 date of taking to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that DANIEL CHAVEZ suffered a loss, as a result of the 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 Four Thousand Dollars (\$4,000.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

MAY 8 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

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.

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).)

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

IN THE MATTER OF THE CLAIM OF

DANIEL CHAVEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 4815

Decision No. CU 1032

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 \$4,000.00, was presented by DANIEL CHAVEZ 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 his birth in the United States.

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).)

This claim was filed July 20, 1967. No evidence in support of the claim was presented. By Commission letter of July 28, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. The Commission made additional suggestions to claimant, through counsel, concerning the submission of supporting evidence in this matter. However, no evidence in response to this correspondence has been received to date. Thereafter, on November 29, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed, that, absence such evidence it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

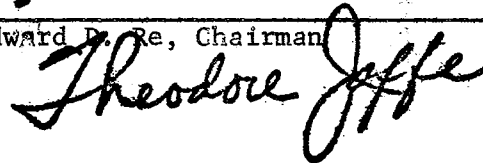
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby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

JAN 31 1968



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

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CU-4815