

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

IN THE MATTER OF THE CLAIM OF

YEE NGOON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0038

Decision No. CUJ - 0039

Petition to Reopen; Proposed Decision entered June 14, 1967, Final Decision entered July 14, 1967.

AMENDED FINAL DECISION

This claim based on an asserted bank account was denied for lack of proof on June 14, 1967. The decision became final on July 14, 1967.

On May 1, 1972 the Commission received from claimant a claim form for the same item, a bank account valued by him at \$827.77. This has been treated as a petition to reopen the claim.

Claimant has submitted a passbook of The Trust Company of Cuba, which reflects the legend Libreta No. I-51040, Cuenta No. 11778 and a balance of 827.77 in national currency of Cuba as of December 23, 1959. Claimant states he returned to this country from Cuba shortly after that time. Although the fly-leaf is missing from the passbook, claimant contends that he is the sole owner of the account.

Subsequently claimant submitted copies of several letters. One of these, from the American Embassy in Cuba under date of November 2, 1959, concerns a request of the claimant for transfer of funds; another such letter of December 14, 1959, requested information as to the asserted account; and an Embassy letter of September 7, 1960 refers to the fact that all bank accounts in Cuba were frozen. Additionally the submission included a copy of a letter clearly from the claimant to the Monetary Fund of Cuba, under date of June 28, 1960, and which refers to the said Bank Account 11778.

On the basis of the record before it, the Commission finds that claimant

was the owner of the aforesaid bank account with a balance of 827.77 pesos.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these enactments and resolutions affect the account of the claimant in Claim No. CU-0038.

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-0038 in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. From the foregoing, the Commission finds that claimant's above described bank account, totalling 827.77 pesos, was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]).

Further, the Commission finds that on December 6, 1961, claimant's 827.77 pesos had a value of \$827.77 and that he suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of his bank account by the Government of Cuba as of December 6, 1961.

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 claim it is so ordered.

Accordingly, the following Certification of Loss will be entered, and in other respects the Proposed Decision and Final Decision are affirmed.

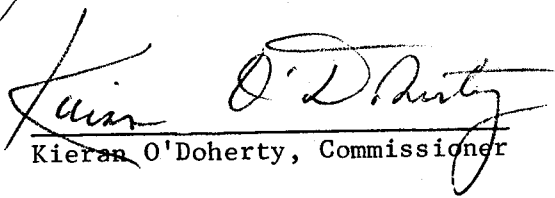
CERTIFICATION OF LOSS

The Commission certifies that YEE NGOON 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 Eight Hundred Twenty-Seven Dollars and Seventy-Seven Cents (\$827.77) with interest thereon at 6% per annum from December 6, 1961 date of taking to the date of settlement.

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

JUN 30 1972


Kyle S. Garlock, Chairman


Kieran O'Doherty, 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.

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

IN THE MATTER OF THE CLAIM OF

YEE NGOON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0038

Decision No. CU 000039

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$827.77 was presented by YEE NGOON based upon the asserted loss of a bank account. Claimant states that he obtained United States nationality through his parents in November 1921.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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 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.

Except for his own statements, claimant has submitted no evidence or information in support of his claim or in support of his United States nationality.

Although the claimant has the burden of proof in establishing his claim, suggestions were made to claimant as to evidence appropriate to submit in support of his claim. By letters dated June 20, 1966, September 27, 1966, October 10, 1966 and November 2, 1966, the Commission suggested, inter alia, that claimant submit evidence to establish his United States nationality, his ownership and loss of a bank account, and the amount of such loss. Although claimant has since communicated with the Commission, the evidence suggested has not been submitted.

The Commission finds, therefore, that claimant has failed to establish that he is a qualified claimant under the Act. Moreover, claimant has failed to establish that he has any claim against the Government of Cuba, or the amount of such claim.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is hereby denied.

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

JUL 14 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

VERIFICATION

This is a true and correct copy of the decision of the Commission which was entered as the final decision on JUL 14 1967

Francis Macpherson
Clerk of the Commission

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 upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)