

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

IN THE MATTER OF THE CLAIM OF

THE GEORGE W. LUFT CO., INC.  
and  
LUFT-TANGEE EXPORT CORPORATION

Claim No. CU -0157

Decision No. CU

337

Under the International Claims Settlement  
Act of 1949, as amended

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 \$24,591.76, was presented by THE GEORGE W. LUFT CO., INC. and LUFT-TANGEE EXPORT CORPORATION, based upon the asserted loss of \$6,503.96 in accounts receivable, and \$18,087.80 in merchandise on consignment. Claimants stated that they have been nationals of the United States since 1921, the date of incorporation for each claimant.

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).)

The claimants allege in their original claim that their agent, Davila & Gonzales of Havana, Cuba, deposited 6,503.96 pesos with the Havana branch of the First National City Bank of New York to cover claimants' draft for \$6,503.96. Assertedly, the bank advised claimants that the pesos had been received, but permission for the exchange of an equivalent amount in dollars has never been granted by the Cuban Government. The claimants further allege that their agent held on consignment \$18,087.80 worth of merchandise which was confiscated by the local Cuban authorities.

Despite the Commission letters enumerated in the paragraphs next following, claimants have not communicated any information or submitted any evidence for consideration since the original claim was filed on July 1, 1965.

By Commission letter of June 30, 1966, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of October 12, 1966, the Commission made

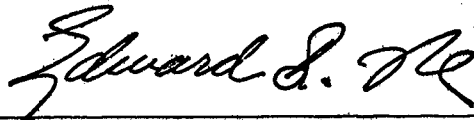
additional suggestions to claimants concerning the submission of supporting evidence in this matter. However, no evidence in response to this correspondence has been received to date.

On May 24, 1967, claimants were invited to submit the suggested evidence within 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.

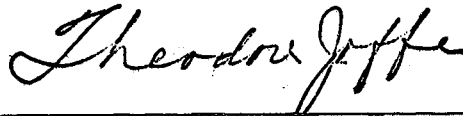
The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is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

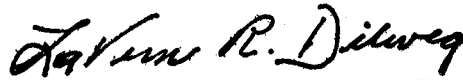
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner



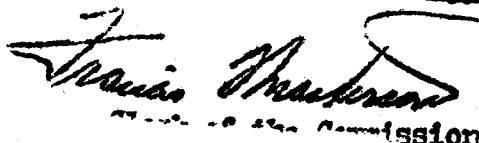
LaVern R. Dilweg, Commissioner

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 (6) as amended, 32 Fed. Reg. 412-13 (1967).)

**CERTIFICATION**

This is a true and correct copy of the decision  
of the Commission entered as the final  
decision on 20 OCT 1967

CU-0157



Francis Mackerson  
Member of the Commission