

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

IN THE MATTER OF THE CLAIM OF

FRANCES DZIADON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0327

Decision No. CU 3857

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 \$54,262.52 was presented by FRANCES DZIADON and is based upon the asserted loss of realty, bank accounts, a promissory note and personal property situated in Cuba. Claimant has been a national of the United States since her 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.

The record reflects claimant had three bank accounts as follows:

No. 3624	reduced balance	\$ 6,024.39
No. 3682	reduced balance	4,993.75
No. 1468		<u>14.27</u>
	Total	\$11,032.41

Additionally claimant asserts loss of personal property, having submitted a comprehensive list thereof.

The Commission finds that claimant was the owner of the aforesaid bank accounts and personalty.

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, in the absence of evidence to the contrary, that the bank accounts and personalty were 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].)

The Commission finds that the personalty, not including currency or bank accounts, had a value of \$15,750.00 on the date of loss.

With respect to an item of currency, the Commission finds that insufficient probative evidence has been submitted to establish such loss and this item of claim is accordingly denied.

Claim is also made for real property valued by claimant at \$28,982.02 after deduction of a mortgage. However, the record also reflects that claimant sold this property to the Government of Cuba in return for that government taking over the mortgage, a payment of 5,000 pesos which is included in the bank deposits, and a promissory note for 6,000 pesos, which claimant avers remains unpaid.

Inasmuch as claimant sold the realty, this part of the claim does not come within the scope of the Act and is accordingly denied.

The Commission finds however that the note for 6,000 pesos remained unpaid on February 15, 1961, the due date, and that claimant therefore suffered a loss of \$6,000.00 in this respect by reason of the failure of the Government of Cuba to pay this debt. (See Claim of Clemens R. Maise, Claim No. CU-3191, 1967 FCSC Ann. Rep. 68.)

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), and it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that FRANCES DZIADON 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 Thirty-Two Thousand Seven Hundred Eighty-Two Dollars and Forty-One Cents (\$32,782.41) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

SEP 11 1966

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, 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).)