

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

IN THE MATTER OF THE CLAIM OF

EDWARD H. WOOD

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0943

Decision No. CU **5747**

Counsel for claimant:

Lubershane and Langer  
By: Maxwell Lubershane, Esquire

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 \$30,000.00, was presented by EDWARD H. WOOD and is based upon the loss of a contractual interest in the exploitation of mines located near Santiago, Cuba, and for loss of certain sums stated to have been paid to associates of claimant in the mining venture. Claimant, EDWARD H. WOOD, formerly known as Edward Howard Silverman, has been a national of the United States since 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.

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) (1969).)

Claimant has asserted that a loan of \$30,000.00 was made to Harlan E. Orr and that the loan was evidenced by the promissory note of Harlan E. Orr with 300 shares of stock of Minera Vulcano, S.A. as security, with said stock being placed in escrow. Additionally, claimant has asserted that he advanced funds to his associates, Franklin M. Hurn and Leroy J. Peterson, which were not paid. In support of his claim the claimant submitted a copy of a letter from the American Consulate at Santiago, Cuba, dated June 2, 1960, a copy of a stock certificate, No. 18, of the Minera Vulcano, S.A., issued to Harlan E. Orr, a copy of a Statement of the President of Minera Vulcano, S.A., of February 18, 1960, a Commission and Loan Agreement and a Mining Contract, between claimant and associates and the Minera Vulcano, S.A., which executed on February 18, 1960.

The evidence of record in this matter was insufficient to establish ownership, loss and value of the claimed property, or that such claim was within the purview of Title V of the Act. Accordingly, by Commission letters of January 13, 1967, and June 29, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the provisions of the Act.

Thereafter, claimant submitted through counsel certain appraisal reports prepared by Arnold H. Miller, Consulting Engineer, New York City, dated in October 1959, concerning the mining claims known as Yuca, Carpintero, Grande and Pequena, located near Santiago, Cuba, which were assertedly owned by Minera Vulcano, S.A. Further, claimant submitted a report dated October 21, 1959, concerning an analysis of ore samples taken from the above claims, as prepared by Andrew S. McCreath & Sons, Inc., of Harrisburg, Pennsylvania.

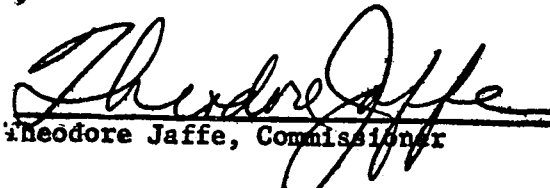
Thereafter, in Commission letter of October 10, 1969, additional suggestions were made to claimant, through counsel, toward the submission of supporting evidence, both pertaining to ownership, loss and value of the property, subject of the claim, and applicability of Title V of the Act to this claim. Thereafter, by Commission letter of December 10, 1969, counsel was invited to submit any evidence available to him within 30 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 existing record. No evidence has since been submitted.

The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record, including that evidence pertaining to the ownership, loss and value of the property included in each claim. Thus, the Commission finds that claimant herein 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, 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

**AUG 19 1970**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, 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).)