

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

IN THE MATTER OF THE CLAIM OF

ROSITA DORF

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1079

Decision No. CU - 6100

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 \$30,000 was presented by ROSITA DORF and is based upon the asserted loss of real property in Cuba, a stock interest and a debt. Claimant 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.

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)(1970).)

Claimant described her loss as follows:

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|---|----------|
| 1. Lot on Avenue del Golfo, Country Club section, Marianao | \$10,000 |
| 2. 50 per cent equity in Tienda Rosita Dorf, S.A. | 12,500 |
| 3. 30 notes of \$250 each issued by claimant's sister, endorsed by Dress Fair, S.A. | 7,500 |

She asserts her claim arose in 1961.

Real Property

Claimant has stated that this property, a lot on Avenue del Golfo in the Country Club Section of Marianao, was inherited from her mother Leah Jurick, and adjudicated to her when the estate was settled in the first half of 1960. She further states that there was a deed settling the estate. The Commission has attempted to obtain evidence on this item of claim in behalf of the claim. The report received, however, is negative.

Tienda Rosita Dorf, S.A.

It is asserted that claimant has a 50% equity in this enterprise, the remainder being owned by one Nicolas Zeller, who has not filed claim with the Commission. This was a ladies specialty store, located in the Havana Riviera Hotel. She has submitted a copy of a balance sheet for the enterprise, for March 1, 1958, which she states is the last balance sheet. This reflects assets in the amount of \$33,820.33, including a receivable due from the claimant in the amount of \$1,500; and liabilities in the amount of \$8,820.33; a list of inventory and equipment, and other pertinent schedules.

However, the file does not reflect her ownership in the enterprise as asserted, although evidence of this was suggested on several occasions; nor does the record establish that the value of the entity remained unchanged from March, 1958 to sometime in 1961.

Debt

It appears from the record that claimant inherited an interest in an enterprise known as "Dress Fair, S.A." In settling the estate of her mother, she sold this interest to her sister Adele Szuchman Jurick and took 30 notes for \$250 each, dated in June, 1960 and endorsed by Dress Fair, S.A.

If these represent a debt of the sister, it is clear that it does not fall within the scope of Title V above. On the other hand, as a debt of a nationalized enterprise, the record in the Claim of Adele Szuchman Jurick, Claim No. CU-0526, does not establish that Dress Fair, S.A. in fact had assets to cover this liability.

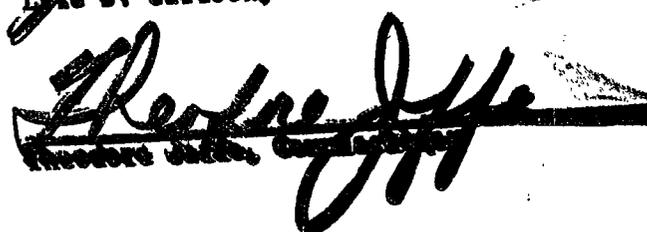
The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. Thus, the Commission finds that claimant has not met the burden of proof

in that she has failed to establish ownership of rights and interests in real and business property which was nationalized expropriated, or otherwise taken by the Government of Cuba, or that any loss suffered in connection with the notes was the result of actions of the Government of Cuba. Accordingly, the Commission is constrained to and does deny this claim for the reasons stated above.

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

MAR 11 1971


Louis S. Garlock, Chairman


Robert J. Hoff, Secretary

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 (1970).)