

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

IN THE MATTER OF THE CLAIM OF

IRMA TEXTILE CORPORATION

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU- 2131

Decision No. CU 646

Counsel for claimant:

Sidney E. Rubenstein

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 \$9,550.33, was presented by IRMA TEXTILE CORPORATION and is based upon the asserted loss of proceeds from merchandise shipped to certain specified consignees in Cuba. Claimant has not shown that it was a national of the United States.

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).)

By Commission letter of June 28, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to that letter had been received by September 13, 1967, at which time counsel was invited to submit any evidence available to him within 45 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. In response thereto, counsel submitted assorted evidence relating to a portion of the amount claimed, including letters to the claimant from TUYA Cuban Express concerning the collection status of claimed-for drafts. By letter of September 20, 1967, the Commission made additional suggestions to claimant, through counsel, with respect to the submission of supporting evidence in this matter, particularly, evidence relating to claimant's United States nationality and to additional evidence to establish the amount claimed. No evidence in response to that letter has been received to date.

On October 25, 1967, counsel was advised to inform the Commission of the date by which he could submit the evidence as stated in the Commission's letter of September 20, 1967, to which he replied that he had no further evidence to submit in the above matter.

The file contains a letter from claimant corporation to the United States Department of State dated March 30, 1961 wherein claimant asserted a loss of \$42,714.37. It is noted that the present claim differs substantially both in amount claimed as well as in the consignees whom claimant asserts is indebted to it.

The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership by a United States National of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba or the value thereof. 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

NOV 15 1967

3 to 3 true and correct copy of the decision  
to Commission which was entered as the Final  
Decision on DEC 27 1967

*Edward D. Re*  
Edward D. Re, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*LaVern R. Dilweg*  
LaVern R. Dilweg, Commissioner

*Francis Thacker*  
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, 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).)

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