

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

IN THE MATTER OF THE CLAIM OF

GRAHAM HAMILTON BIENVENU

CORINNE B. BIENVENU

Claim No. **CU** - 2599

Decision No. **CU** - 535

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on October 25, 1967.
No oral hearing requested.

Hearing on the record held on December 6, 1967.

ORDER AND FINAL DECISION

By Proposed Decision entered on October 25, 1967, the Commission certified that GRAHAM HAMILTON BIENVENU suffered a loss of \$3,601.07, representing one-half of a bank account which was held jointly by claimant GRAHAM HAMILTON BIENVENU and his wife CORINNE B. BIENVENU. A claim for the loss of personal property consisting of cattle and furniture was denied for claimant's failure to meet the burden of proof.

Claimant objected to the Proposed Decision and submitted therewith the petition of CORINNE B. BIENVENU to join in the claim, together with proof of her United States nationality.

Full consideration having been given to the entire record, including claimant's objections, it is

ORDERED that the petition of CORINNE B. BIENVENU be granted and it is further

ORDERED that the Proposed Decision be amended as follows:

The Commission further finds that CORINNE B. BIENVENU suffered a loss of a bank account in the amount of \$3,601.07 as a result of the taking of the bank account by the Government of Cuba on December 6, 1961.

As so amended, the Proposed Decision is entered as the Commission's Final Decision in this matter.

CERTIFICATION OF LOSS

The Commission certifies that CORINNE B. BIENVENU 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 Three Thousand Six Hundred One Dollars and Seven Cents (\$3,601.07) with interest thereon at 6% per annum from the December 6, 1961 date of taking to the date of settlement.

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

14 DEC 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

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IN THE MATTER OF THE CLAIM OF

GRAHAM HAMILTON BIENVENU

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2599

Decision No. CU 535

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$14,127.13 was presented by GRAHAM HAMILTON BIENVENU based upon the loss of a bank account and personal property in Cuba. Claimant has been a national of the United States since his birth in 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.

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).)

Claimant contends that he lost a bank account in Cuba having a balance of 7,202.13 pesos. The record establishes that on May 31, 1960, claimant together with Corinne B. Bienvenu had a balance of 7,202.13 Cuban pesos in account No. P8846 with the Havana branch of The First National City Bank of New York.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these things affect the account of the claimant in Claim No. CU-2599.

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-2599 in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. In the absence of evidence to the contrary, the Commission finds that the above described bank account, subject of this claim totalling 7,202.13 pesos, was taken by the Government of Cuba on December 6, 1961. (See the Claim of Floyd W. Auld, FCSC Claim No. CU-0020.) Further, the Commission finds that on December 6, 1961, 7,202.13 pesos had a value of \$7,202.13.

The subject bank account was held in the name of the claimant, GRAHAM HAMILTON BIENVENU and in the name of Corinne B. Bienvenu. On June 16, 1967, claimant was advised that Corinne B. Bienvenu could petition the Commission to join in this claim provided she was a United States citizen on the date of loss; and on August 17, 1967, claimant was advised that if the suggested evidence was not received within 45 days from the date of that letter, a determination might be made on the basis of the existing record. No evidence in response to these Commission letters has been received.

Accordingly, the Commission finds that claimant suffered a loss of a one-half interest in the above-mentioned bank account equal to \$3,601.07 as a result of the taking of the bank account by the Government of Cuba as of December 6, 1961.

The Commission has decided that in the 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$3,601.07 from December 6, 1961 to the date on which the provisions are made for the settlement thereof.

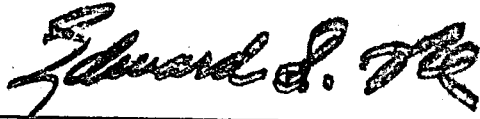
A portion of this claim is based on the loss of personal property in Cuba. However no evidence in support of this portion of the claim has been presented, although it was suggested to claimant in the Commission letters of June 16, 1967 and August 17, 1967, mentioned above that such evidence be submitted. Accordingly, the Commission is constrained to deny this portion of the claim and it is hereby denied.

CERTIFICATION OF LOSS

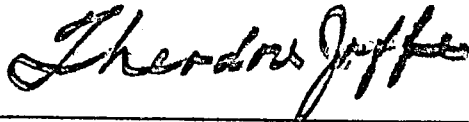
The Commission certifies that GRAHAM HAMILTON BIENVENU suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Thousand Six Hundred One Dollars and Seven Cents (\$3,601.07) with interest thereon at 6% per annum from the December 6, 1961 date of taking to the date of settlement.

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

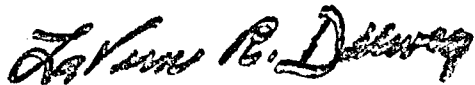
OCT 25 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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).)