

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

IN THE MATTER OF THE CLAIM OF

LILYAN R. LIVOVICH

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2676

Decision No. CU 4463

Counsel for claimant:

Abraham Bittman, Esquire

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 \$54,579.00, was presented by LILYAN R. LIVOVICH and is based upon the asserted loss of a business in Cuba. 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. 983 (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).)

Claimant describes the asserted losses as follows:

Inventory of merchandise of a business in Havana	\$37,500.00
Cash in bank	1,500.00
Cash in warehouse safe	5,079.00
Household and personal property	<u>10,000.00</u>
	\$54,079.00

The record discloses that by letter of October 19, 1960 on a letter-head of "Livovich Bros", claimant informed the American Embassy that she and her husband were the joint owners of Livovich Bros., described as a business established in 1937 for the sale of leather and plastic materials. Claimant then stated that she and two minor children were United States citizens. She also asserted that as of September, 1960 the merchandise inventory had an estimated value of \$37,500.00. However, no evidence was offered in support of these assertions.

Information derived by the Commission from the Cuban Official Gazette reflects that a firm "Livovich Bros." was intervened on February 6, 1961, nationalized as of August 8, 1961 and closed as of December 5, 1961.

By Commission letter of March 16, 1968, claimant was advised through counsel as to the type of evidence proper for submission to establish this claim under the Act.

On September 27, 1968 claimant was informed through counsel of the re-  
jection in the Commission's staff and reminded of the elements of claim to  
be established.

On September 23, 1969 claimant through counsel was invited to submit any  
evidence available to her within 45 days from that date, and she was informed  
that, absent such evidence, it might become necessary to determine the claim  
on the basis of the existing record. No reply has been submitted.

The Commission finds that claimant has not met the burden of proof in  
that she has failed to establish ownership of rights and interest in property  
which was nationalized, expropriated or otherwise taken by the Government of  
Cuba. 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

29 JAN 1970

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

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 Pro-  
posed 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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