

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

IN THE MATTER OF THE CLAIM OF

EDWARD VINCENT NODARSE

Claim No. CU-2732

Decision No. CU -963

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision issued January 17, 1968.
No oral hearing requested; hearing on the record.

Hearing on the record held on April 10, 1968.

FINAL DECISION

Under dated of January 17, 1968, the Commission issued its Proposed Decision denying this claim for failure of proof, in that claimant had failed to establish his ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. By letter of February 9, 1968, claimant filed objections to the Proposed Decision, but has not submitted additional evidence in support of this claim.

The Commission has reviewed and examined all of the evidence of record, and finds that the record does not contain evidence of probative value which would warrant a different determination from that made in the Proposed Decision.

Full consideration having been given to the objections of claimant, and the entire record, including claimant's objections, having been reviewed

and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be, and the same is, affirmed as the Final Decision of the Commission in this claim.

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

APR 24 1960

Leonard v. B. Sutton

Leonard v. B. Sutton, Cha'rman

Theodore Jaffe

Theodore Jaffe, Commissioner

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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 \$2,200.00, was presented by EDWARD VINCENT NODARSE and is based upon the asserted loss of a bank account and United States currency located in a safety deposit box in Cuba.

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).)

Claimant asserts that he deposited the sum of \$2,200.00 in a safety deposit box of Banco Continental de Almendares in Cuba in 1957. Claimant also asserts that he maintained a savings account at the same bank, and that, due to the situation in Cuba, the monies on deposit in the safety deposit box and in his savings account were confiscated by the "Ministry of Recuperation of Misapplied Properties". By Commission letter of July 6, 1967, claimant was specifically advised as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence has been received to date.

On August 9, 1967, claimant 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. No evidence has since been submitted.

The Commission finds that claimant 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, this claim is 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

JAN 17 1968

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

COMMUNICATIONS
THIS IS A TRUE AND CORRECT COPY OF THE DECISION
OF THE COMMISSION WHICH WAS NATIONALIZED BY THE FINAL
DECISION 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).)