

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

IN THE MATTER OF THE CLAIM OF

DELIA MAXIMA FAILDE

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2767

Decision No. CU

492

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$31,400.63, was presented by DELIA MAXIMA FAILDE based upon the asserted loss of "merchandise and/or ocean freight due to claimant", and a bank account in the First National Bank of Boston in Cuba. Claimant states that she has been a national of the United States since her birth in the State of Florida.

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 of 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 in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership and loss of merchandise and ocean freight as well as a bank account which were assertedly taken by the Government of Cuba; however, claimant has submitted no documentary evidence in support of her claim. By Commission letter of June 14, 1967, claimant was advised as to the type of evidence proper for submission to establish her claim under the Act.

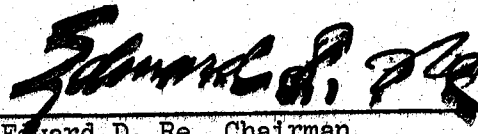
On July 19, 1967, claimant was invited to submit any evidence she might have within 45 days from that date, and she was informed, that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Claimant has not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

CU-2767

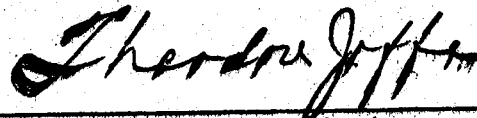
The Commission finds that claimant has not met the burden of proof, in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

OCT 18 1967



Edward D. Re, Chairman

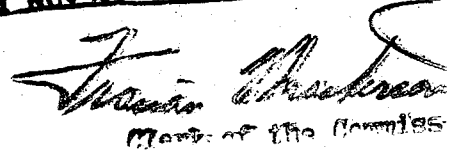


Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on 21 NOV 1967



Francis Christman  
Member 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).)

CU-2767