

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

IN THE MATTER OF THE CLAIM OF

RAFAEL M. LOPEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2898

Decision No. CU 85

Counsel for claimant:

A.V. Bethencourt, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$45,150.00, is based upon asserted ownership and loss of real and personal property and loans, secured as well as unsecured, in Cuba. Claimant, RAFAEL M. LOPEZ states that he has been a national of the United States since his naturalization on January 15, 1965.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988), the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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 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.

Section 502(1) of the Act defines the term "national of the United States" to mean ". . . (A) a natural person who is a citizen of the United States, . . . The term does not include aliens."

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

It is stated by claimant that the loss occurred on January 1, 1959, a date when claimant, the asserted owner of the properties involved in this claim, was not a national of the United States. Accordingly, the Commission concludes that the subject properties were not owned by a national of the United States on the date of their asserted nationalization or other taking and continuously thereafter to the date of filing with this Commission, as required

for certification of a loss under the provisions of the Act discussed above. Accordingly, the claim must be and is hereby denied.

Other elements of the claim have not been considered.

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

JUN 28 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

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 JUL 28 1967

Francis M. Anderson
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 upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)