

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

IN THE MATTER OF THE CLAIM OF

ARTHUR D. DITATA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3513

CU-3514

Decision No. CU **318**

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$111.74 plus interest and \$166.99 plus interest, respectively, were presented by ARTHUR D. DITATA based upon bank accounts in Cuba and Panama. Claimant has been a national of the United States since his birth in the State of New York on May 14, 1914.

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.

Claimant contends that he has lost a bank account in Cuba having a balance of 111.74 pesos. The record establishes that claimant had a balance of 111.74 Cuban pesos on deposit with the Banco Continental Cubano in Havana, Cuba on July 16, 1959.

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-3513.

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-3513 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 claimant's above described bank account, totalling 111.74 pesos, was taken by the Government of Cuba on December 6, 1961. (See In the Matter of the Claim of Floyd W. Auld, FCSC Claim No. CU-0020.)

Further, the Commission finds that on December 6, 1961, claimant's 111.74 pesos had a value of \$111.74 and that he suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of his bank account by the Government of Cuba as of December 6, 1961.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed 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 \$111.74 from December 1961 to the date on which the provisions are made for the settlement thereof.

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).)

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Claimant states, with respect to claim No. CU-3514, that he opened a bank account by mail with the Inter-American Building and Loan Association, Panama, Republic of Panama. The record includes a booklet described as an Investment Certificate and Record of Investments with the Association, a corporation organized under the laws of the Republic of Panama. The booklet reflects that claimant was credited with "investments" in the amount of \$166.99 as of March 3, 1960.

In the claim form, claimant states that he "was informed by mail that the bank failed and liquidated its assets and that it was a fraudulent firm." Claimant does not allege, and the record does not indicate, that the aforementioned failure of the corporation or his loss arose as a result of actions for which the Government of Cuba was responsible.

Accordingly, the Commission finds that claimant has not met the burden of proof with respect to Claim No. CU-3514 in that he has failed to establish that property in which he had a right or interest was nationalized, expropriated or otherwise taken by the Government of Cuba. (See the Claim of Joseph Simone, FCSC Claim No. CU-1021.) 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 Claim No. CU-3514.

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CERTIFICATION OF LOSS

The Commission certifies that ARTHUR D. DITATA 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 One Hundred Eleven Dollars and Seventy-Four Cents (\$111.74) 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

SEP 20 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, 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 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).)

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