

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

IN THE MATTER OF THE CLAIM OF

ESTELA FIALLO

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. **CU-3728**

Decision No. **CU**

**402**

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 \$60,000.00, was presented by ESTELA FIALLO and is based upon the asserted loss of improved realty located in Camaguey 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).)

This claim is based upon the loss of improved realty consisting of a two story building with a restaurant and two other businesses on the ground floor and two apartments on the top floor. Claimant states that she and her son Humberto A. Diaz inherited this property from the claimant's sister Angela Alonso upon the latter's death on November 9, 1962; and that the claimant and her son are making this claim as "heirs of an American citizen." Claimant has submitted evidence that Angelo Alonso has been a United States national since her naturalization on June 9, 1924, but states that claimant arrived in the United States on October 31, 1960 and that Humberto A. Diaz arrived in the United States on December 24, 1962. By Commission letter of July 7, 1967, it was suggested to claimant that she submit evidence of her own United States nationality and that of Humberto A. Diaz. Claimant did not submit such evidence. On August 22, 1967 claimant was again advised to establish the United States nationality of herself and her son, and was further advised that absent such evidence within 20 days from that date it might become necessary to determine this claim on the basis of the existing record. No evidence has since been submitted.

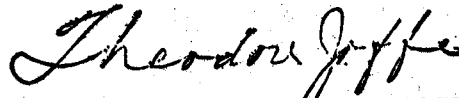
The Commission finds therefore that claimant has not met the burden of proof in that she failed to establish that the property on which this claim is based was owned by a national of the United States continuously from the date of loss until the date of filing with the Commission. Thus, the Commission 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

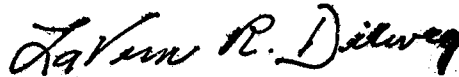
OCT 4 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LeVern 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, 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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