

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

IN THE MATTER OF THE CLAIM OF

FRANK W. ELLIS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8099

Decision No. CU 4455

PROPOSED DECISION

Claimant, FRANK W. ELLIS, who owned shares of stock in the Minera Vulcano, S.A. (Vulcan Mining Corporation), asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization or other taking of said Corporation's assets.

The Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967 (FCSC Reg., 45 C.F. R. Sec. 531.1(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g))

No claim was filed with this Commission by or on behalf of claimant within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning his asserted loss.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.) It considers this to be such a claim.

In our decision, entitled the Claim of James Moral Craver (Claim No. CU-5114), which we incorporate herein by reference, we held that the assets of the Minera Vulcano, S.A. were taken by the Government of Cuba on November 17, 1959 by virtue of Cuban Law of October 27, 1959 on Mining Rights; and that this type of claim is within the purview of Section 503(a) of the Act under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value of \$100.00 per share of stock.

On the basis of evidence of record in the instant case, the Commission finds that the claimant, FRANK W. ELLIS, comes within the terms of the Craver decision; that he was a national of the United States at all times relevant to this claim; that he has been the owner of 90 (ninety) shares of stock in the Minera Vulcano, S.A. since prior to November 17, 1959; and that he sustained a loss in the total amount of \$9,000.00 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from November 17, 1959, the date when the claim arose, to the date on which provisions are made for the settlement thereof. (See Craver, supra.)

CERTIFICATION OF LOSS

The Commission certifies that FRANK W. ELLIS 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 Nine Thousand Dollars (\$ 9,000.00) with interest at 6% per annum from November 17, 1959 to the date of settlement.

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

29 JAN 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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].)