

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

*Loss item sold
prior to filing*

IN THE MATTER OF THE CLAIM OF

MICHAEL VASTI

Under the International Claims Settlement
Act of 1949, as amended

33

Claim No. CU -2145

Decision No. CU 390

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 \$1,599.69, was presented by MICHAEL VASTI based upon the asserted loss of merchandise shipped to a Cuban firm in 1959. Claimant, MICHAEL VASTI, has been a national of the United States since his birth in New York State in 1906.

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.

Evidence of record discloses that claimant, MICHAEL VASTI, sold merchandise in the amount of \$1,599.69 to a firm in Havana, Cuba, known as Almacen de Tejidos Universal; and that although such merchandise was apparently sold by claimant, claimant indicated that the "... account has been assigned to, is owned by, and is payable to: Heymann Mercantile Co., Inc." The record also includes a letter dated July 18, 1960, from the First National Bank of Boston to the Heymann Mercantile Co., Inc., a New York firm, indicating that authority to remit the sum in question to the assignee, Heymann Mercantile Company had not been granted at that time by the Cuban Monetary Stabilization Fund. The Commission records disclose that Heymann Mercantile Company has filed FCSC Claim No. CU-3393 and included therein a claim in the sum of \$1,599.69 for the loss of payment for the merchandise.

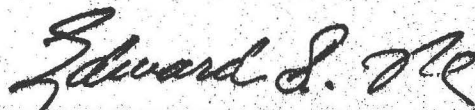
Under the aforesaid provisions of the Act it is apparent that in order to establish a compensable claim, the claimant must establish ownership of the property in question at time of the asserted loss, and ownership of the claim therefor continuously from time of loss to filing claim with this Commission. In the instant claim, the claimant assigned his rights in the claim to the Heymann Mercantile Company prior to filing this claim, indicating that such account or sum payable by the Cuban consignee was assigned

to and owned by the assignee. Thus, while claimant may have been the creditor at the time of loss, he was not the owner of the claim at the time of filing claim herein.

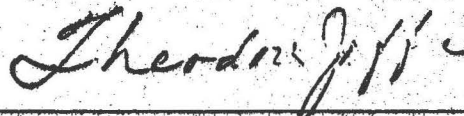
Accordingly, for the foregoing reasons, this claim is hereby denied. The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

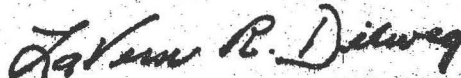
OCT 4 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



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, 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).)