

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

IN THE MATTER OF THE CLAIM OF

DOLORES TAWATER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2277

Decision No. CU 137

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 \$380,000.00 was presented by DOLORES TAWATER based upon the confiscation of certain improved real property, personal property and a business known as E. Boher y Cia. Claimant, DOLORES TAWATER, states that she has been a national of the United States since her naturalization on May 17, 1966.

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 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.

Section 502(1) of the Act defines the term "national of the United States" as "(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.

Claimant states that the loss arose during November 1960 and that she inherited her interest in the subject property from her parents, Emilio Boher and Carmen G. de Boher, upon their deaths on June 12, 1964 and December 5, 1966, respectively. She states further that they were nationals of Cuba at the time of their deaths.

Consequently, even if claimant was able to establish the ownership, loss and value of the subject property, it must also be shown that the property was owned by a national of the United States on the date of loss and the claim continuously owned thereafter to the date of presentation to the Commission.

It is clear from the record that neither the property claimed nor any interest therein was owned by nationals of the United States on the date of loss as required by Sections 503(a) and 504(a) of the Act.

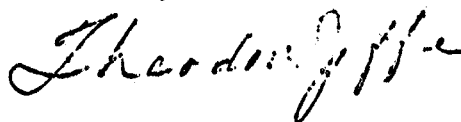
Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is denied.

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

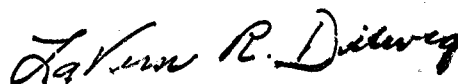
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Edward D. Re, Chairman



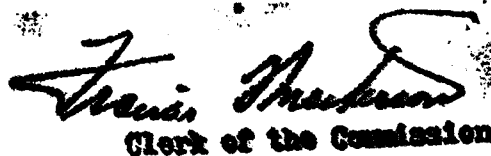
Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

COMMUNICATION

**This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on -- AUG-25-1967 --**



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, 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).)