

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

IN THE MATTER OF THE CLAIM OF

C. STEWART O'NEILL

Claim No. CU - 2473

Decision No. CU **1334**

Under the International Claims Settlement
Act of 1949, as amended

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 \$111,400.00, was presented by C. STEWART O'NEILL, and is based upon the asserted loss of income from a brokerage business in Cuba; loss of personal property; and the loss of value of insurance policies. Claimant has been a national of the United States since his birth.

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).)

Other than his own statements as set forth in the claim filed on April 28, 1967, claimant submitted no evidence to establish a claim under the Act. Accordingly, by Commission letter of June 27, 1967, suggestions were made to the claimant as to the type of additional evidence necessary to establish a compensable claim. In reply to this Commission letter, claimant submitted evidence of his United States nationality, and his own statements with respect to the losses which are the subject matter of this claim.

Thereafter, by letter of September 11, 1967, the Commission, advised the claimant that an inventory which he had submitted to the United States Embassy in Havana in 1960 had been associated with the file. He was further advised that with respect to the losses based upon life insurance policies and loss of income, no evidence other than claimant's own statements had been submitted. It was therefore suggested

that the evidence to establish such losses be submitted within 45 days from the date of that letter. In response to the Commission letter, claimant submitted an incomplete 1960 United States Individual Income Tax Return form; a letter addressed to claimant from Pan-American Life Insurance Company dated June 14, 1961; and a letter to claimant from the Internal Revenue Service dated February 8, 1962.

After examination of all of the evidence of record, by Commission letter of December 27, 1967, claimant was advised that additional evidence must be submitted to establish his claim, to wit: evidence to establish the value of his brokerage business; evidence to establish the cash value of his insurance policies of the date of loss; and a detailed break-down of the items of personal property, indicating dates of acquisition and the value of each item on the date of loss. No evidence other than claimant's own statements was received in reply to the Commission letter.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is 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

FEB 21 1968

CERTIFICATION

is is a true and correct copy of the decision
the Commission which was entered as the final
cision on MAY 29 1968

Francis Masterson

Clerk of the Commission

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, 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).)