

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

IN THE MATTER OF THE CLAIM OF

ISAAC M. KABBANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0024

Decision No. CU000038

Counsel for claimant:

Moe B. Safer, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by ISAAC M. KABBANY for \$1,053.80 plus interest based upon the asserted ownership and loss of a bank account. Claimant, ISAAC M. KABBANY, has been a national of the United States since his naturalization at Miami, Florida on May 4, 1928.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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 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(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.

Claimant has submitted a passbook in support of his claim from The National City Bank of New York, branch at O'Reilly and Compostela, Havana, Cuba, account No. C-15713, balance on September 17, 1959, 1,053.80 pesos.

Claimant has explained that the funds represent a savings account which he opened with The National City Bank of New York in Havana, Cuba, while on a trip there in 1957. He states that in October 31, 1960, he requested the Bank to honor a draft on his savings account. By letter dated November 4, 1960, he was notified by the Bank that the accounts in local banks of individuals residing abroad had been blocked.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these things affected the accounts of claimant. However, a chronological result is of historical interest. Matters pertaining to safety deposit boxes and their contents are not included in this resume.

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. The records of this Commission include a letter of the nationalized National City

Bank of New York, under date of November 4, 1960, informing a United States resident that accounts in local banks, of individuals residing abroad, were blocked by said Law 568.

By Cuban Resolution 2, published in the Cuban Official Gazette on September 17, 1960 pursuant to Cuban Law 851, the Government of Cuba specifically took over The Chase Manhattan Bank of New York, National City Bank of New York and the First National Bank of Boston. This action did not nullify the debts of the banks, which included deposit accounts.

Law 891, published in the Cuban Official Gazette on October 13, 1960, made banking a public function and took over all banks. This action did not in itself nullify debts to depositors, although some accounts, as of companies, may have been taken by other nationalization of such entities.

Law 930, published in the Cuban Official Gazette on February 23, 1961 gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence.

By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some exceptions as for example, persons in need could draw 2,000 of 20,000 and companies could draw 5,000 of 10,000 pesos.

However, Laws 963 and 964 do not affect Claim No. CU-0024, in which the accounts did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. In the absence of evidence to the contrary, the Commission finds that claimant's above described bank account, totalling 1,053.80 pesos, was taken by the Government of Cuba on December 6, 1961.

(See In the Matter of the Claim of Floyd W. Auld, FCSC Claim No. CU-0020.)

Further, the Commission finds that on December 6, 1961, claimant's 1,053.80 pesos had a value of \$1,053.80 and that he suffered a loss in that amount.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of American Cast Iron Pipe Company, FCSC Claim No. CU-0249).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961 the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ISAAC M. KABBANY 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 One Thousand Fifty-Three Dollars and Eighty Cents (\$1,053.80) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

JUN 14 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

CERTIFICATION
This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on JUN 14 1967

Frank M. ...
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 upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)