

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

IN THE MATTER OF THE CLAIM OF

ISABEL DE SILVA

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0890

Decision No. CU-

3086

Counsel for claimant:

John R. Peddy, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$144,660.11, was presented by ISABEL DE SILVA, based upon the loss of two bank accounts in Cuba. Claimant has been a national of the United States since her 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.

The record, including correspondence from the First National City Bank of New York, establishes that as of August 16, 1960, there were on deposit in the Havana, Cuba, branch of First National City Bank the following sums: 60,000 Cuban pesos in an account in claimant's name, and 78,997.99 Cuban pesos in a joint account in the name of claimant and her late husband, a national of Cuba who died in Miami, Florida on October 21, 1967.

Based upon the entire record, the Commission finds that claimant was the owner of a bank account having a total of 60,000 pesos on deposit. The Commission further finds that claimant was the owner of a one-half interest in a second account having a total of 78,997.99 pesos on deposit. Both of these accounts were maintained at the Havana branch of the First National City Bank of New York.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these, however, affect the accounts subject of Claim No. CU-0890.

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. 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 minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-0890, 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 interests in above-described bank accounts, totalling 99,498.99 pesos, were taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020.)

Further, the Commission finds that on December 6, 1961, claimant's 99,498.99 pesos had a value of \$99,498.99, and that she suffered a loss in that amount within the meaning of Title V of the Act, as a result of the taking of her bank accounts by the Government of Cuba as of December 6, 1961.

Claimant also asserts the ownership of the remaining one-half interest in the bank account owned jointly by herself and her husband.

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.

As noted above, the joint bank account in the amount of 78,997.99 Cuban pesos was owned by claimant and her late husband, each to the extent of a one-half interest. While claimant asserted ownership of the entire bank account in filing this claim, the record establishes that she owned no more than the one-half interest therein on the date of loss. With respect to the remaining one-half interest owned by claimant's late husband, a national of Cuba at the time of his death on October 21, 1967, the Commission finds that his one-half interest in the account was not owned by a national of the United States on the date of loss, as required by Section 504(a) of the Act. Accordingly, this portion of the claim, based upon the remaining one-half interest in the joint bank account, must be and is denied.

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 Claim of Lisle Corporation, Claim No. CU-0644.)

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, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ISABEL DE SILVA 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 Ninety-Nine Thousand Four Hundred Ninety-Eight Dollars and Ninety-Nine Cents (\$99,498.99) 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

**SEP 25 1968**

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

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).)