

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

IN THE MATTER OF THE CLAIM OF

FRANCISCO G. TOUS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1173

Decision No. CU 1977

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 \$415,279.95, was presented by FRANCISCO G. TOUS, and is based on the asserted ownership and loss of certain Cuban real estate, personal property, and interests in several Cuban business entities. Claimant has been a national of the United States at all times pertinent to this claim.

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).)

Claimant asserts the ownership and loss of certain Cuban real estate valued at \$73,519.95. This property is said to have been held by claimant and his wife; but no information or evidence concerning the nationality of claimant's wife has been submitted. Claimant also asserts the loss of personal property, including jewelry, silver, furnishings, and household goods, the total value of which is stated as \$22,000.00. No documentary evidence has been submitted in support of the asserted ownership and value of the real and personal property. The only documents submitted in support of this claim are photocopies of documents showing that claimant was born in Puerto Rico and that he was issued a United States passport on February 1, 1944.

Claimant has also asserted the ownership and loss of certain interests in several Cuban business enterprises. Claimant asserts an interest in Cia. Riera Toro y Van Twistern, valued at \$100,000.00; an interest in Cia. Impresora de Cuba, valued at \$36,000.00; an interest

in Tous y Matas, valued at \$150,000.00; an interest in Comunidad Arrocería Hato Quemado, valued at \$10,000.00; and a 108 share stock interest in the Trust Company of Cuba, valued at \$23,760.00. Claimant has not submitted any documents to support the asserted ownership or values and he has advised the Commission that most of the supporting documents were lost or taken at the time of his departure from Cuba.

Information available to the Commission discloses that claimant was involved in the organization and operation of several of the enterprises listed above; however, this information does not disclose the extent of claimant's ownership interests, if any, on the dates in 1959 and 1960 when the enterprises were allegedly nationalized or otherwise taken by the Government of Cuba.

By Commission letter of March 24, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, claimant requested the assistance of the Commission in obtaining evidence in support of his claim. By Commission letter of October 16, 1967, claimant was advised of the information available to the Commission and it was suggested that additional evidence be submitted. Claimant was informed in each instance, that a claimant has the burden of proof on all issues involved in the determinations of his claim. No evidence in response to this correspondence has been received to date.

On November 17, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

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

JUN 13 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, 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).)

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