

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

IN THE MATTER OF THE CLAIM OF

JOSE M. BARRIOS, JR.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1484  
Claim No. CU-3866  
Decision No. CU

**1670**

PROPOSED DECISION

Claim CU-1484 against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$525.00, was presented by JOSE M. BARRIOS, JR., and is based upon the asserted loss of money deposited in a Cuban bank. Claim CU-3866 had been opened by the Commission on his behalf. 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).)

The record shows that on November 2, 1966, the Royal Bank of Canada transferred by cable the sum of \$563.30 in Canadian currency to Banco Nacional de Cuba, Havana, Cuba, for credit to the account of claimant and three other persons. This sum was assertedly for the payment of airline transportation to the United States for the claimant, Jose M. Barrios, Jr. and the three other persons. However, claimant asserts that he left Cuba by plane via Mexico, not using the credit on deposit in Cuba; and therefore files this claim for the loss thereof.

In a letter addressed to the claimant on December 1, 1967, the Commission advised that the record did not show that claimant had suffered a loss of the transferred credit as the result of actions of the Cuban Government. The Commission suggested the submission of specific information and evidence which would substantiate the claimant's assertions and informed the claimant that if the suggested evidence was not received within 30 days from the date of the letter, it might be necessary to make an unfavorable recommendation on his claim to the Commission. No evidence or reply has been received in response to this 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. Thus, the Commission is constrained to deny these claims and they are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of these claims.

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

APR 10 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

CERTIFICATION  
This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on MAY 21 1968  
*Francis Hartman*  
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).)

CU-1484  
CU-3866