

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

IN THE MATTER OF THE CLAIM OF

LEO MOSER, JR., JOSEPH EDGAR MOSER,
GERARD McMAHON AND ST. LOUIS UNION
TRUST COMPANY, TRUSTEES UNDER WILL
OF ELIZABETH L. MOSER, DECEASED

Claim No. CU -1606

Decision No. CU 4250

**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 \$2,374.25, was presented by LEO MOSER, JR., JOSEPH EDGAR MOSER, GERARD McMAHON AND ST. LOUIS UNION TRUST COMPANY, TRUSTEES UNDER WILL OF ELIZABETH L. MOSER, DECEASED, based upon the asserted loss of a debt due from a nationalized Cuban entity.

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 claimants are co-trustees under the will of Elizabeth L. Moser, deceased, for the benefit of a number of different beneficiaries of three separate trusts created under the will.

In response to initial suggestions made by the Commission, by letter dated July 31, 1967, for proof that all of the beneficiaries are nationals of the United States, claimants submitted copies of two birth certificates and a census report. Under date of May 28, 1968, the Commission informed claimants that the three trusts named many beneficiaries, and suggested an affidavit from the trustees setting forth the nationality of each beneficiary, and the date and place of his birth.

No response has been received from the claimants, although the Commission forwarded letters to them under dates of June 25, 1968, October 10, 1968, January 22, 1969 and July 31, 1969, suggesting to claimants that the evidence be submitted.

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The Commission finds that the burden of proof has not been met in this case. It has not been established that the beneficiaries, the real parties in interest, are nationals of the United States, and that the claim was owned by nationals of the United States from the date of loss until the date of filing with the Commission, as required by Section 504(a) of the Act. Accordingly, this claim is denied in its entirety.

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

NOV 26 1959

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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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