

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

IN THE MATTER OF THE CLAIM OF

SALVADOR G. MANDINE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1904

Decision No. CU 2908

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,320.00, was presented by SALVADOR G. MANDINE and is based upon the asserted loss of an automobile and a bank account in Cuba. Claimant has been a national of the United States since 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.

Claimant asserts that he owned an account in a Cuban bank totaling 260.36 pesos. In support of this contention, claimant has submitted passbook No. 101618, issued to claimant by Banco Godoy-Sayan, and showing a balance of 260.36 pesos as of March 7, 1960.

Claimant also asserts the ownership of a 1954 Oldsmobile sedan, and assigns a total value of \$1,060.00 to the car. In support of this contention, claimant has submitted a copy of a New York State registration certificate for a 1954 Oldsmobile sedan, and an original and translated copy of a Cuban import permit and registration for the same automobile. Each document lists claimant as the owner of the car.

On the basis of the evidence of record, the Commission finds that claimant was the owner of both the automobile and the bank account which form the basis of the claim. On the basis of the evidence of record, and after consideration of other available evidence, the Commission concludes that at the time claimant left Cuba, October, 1960, the automobile had a value of \$600.00, and the bank account had a value of \$260.36.

On December 6, 1961, the Government of Cuba published in its Official Gazette Law 989, which by its terms nationalized by confiscation all

goods and chattels, rights, shares, stocks and bonds, and other securities of persons who had left Cuba. This included such bank accounts as had not been confiscated by Cuban Laws 963 and 964 (Official Gazette, August 4, 1961 and August 9, 1961). In the absence of evidence to the contrary, the Commission finds that claimant's bank account, totalling \$260.36, was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55/July-Dec. 1966/.)

Prior to his departure from Cuba, claimant executed a power of attorney which enabled his father-in-law to use or sell the 1954 Oldsmobile. The record contains an affidavit executed by claimant's mother-in-law which recites that the Cuban police seized the automobile in November, 1960, and that it was never returned. The affiant states that legal action was taken by her late husband to regain possession of claimant's Oldsmobile, but such action proved fruitless.

On the basis of the evidence of record, the Commission finds that claimant's 1954 Oldsmobile sedan, valued at \$600.00, was taken by the Government of Cuba and that, in the absence of evidence to the contrary, the taking occurred on November 30, 1960.

Accordingly, it is concluded that claimant suffered a loss within the meaning of Title V of the Act, as a result of the actions of the Government of Cuba, and that the loss occurred on November 30, 1960 as to \$600.00, and on December 6, 1961 as to \$260.36, for a total of \$860.36.

The Commission has decided that in certification of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$600.00 from November 30, 1960, and on \$260.36 from December 6, 1961, to the date on which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SALVADOR G. MANDINE 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 Eight Hundred Sixty Dollars and Thirty-six Cents (\$ 860.36) with interest thereon at the rate of 6% per annum from the respective dates of loss to the date of settlement.

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

AUG 29 1968

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

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).)