

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

IN THE MATTER OF THE CLAIM OF

RALPH M. SIVERIO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2063

Decision No. CU

3007

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by RALPH M. SIVERIO, for \$40,000.00, based upon the asserted loss of currency. Claimant, RALPH M. SIVERIO, 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 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.

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 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).)

Claim has been asserted in the amount of \$40,000. Claimant states that this was bequeathed him by his father and was turned over to him in Havana. As he could not take the money with him he states he left it with his sister who gave him a receipt witnessed by his grandfather, an uncle and his late father's business partner.

By Commission letter of June 5, 1967 it was suggested to claimant that he submit evidence to support the asserted loss. By letter of November 16, 1967 it was specifically suggested that claimant submit a copy of his late father's will and the receipt given him by his sister, and other evidence.

Claimant then submitted the affidavit of his grandfather reciting that claimant inherited the \$40,000; that it was paid to claimant on June 15, 1960 by his sister from estate funds; but that as claimant could not take the money out of Cuba, he left it with his sister. The sister, affiant continues, made a receipt signed before claimant's uncle and the late father's business partner. This receipt, it is said, was left with the grandfather, who left it in Cuba when he came to the United States.

Further, claimant's grandfather continues, the cash was deposited at the Bank of Nova Scotia in the name of claimant's sister, on which occasion he accompanied both grandchildren to the aforesaid Bank when the money was so deposited.

Another affidavit, by claimant's uncle was submitted. This affidavit states that the \$40,000 was paid to claimant by his sister from estate funds; that as the money could not be removed from Cuba, claimant left it with his sister in return for the receipt which was left with the grandfather and later left in Cuba.

On December 15, 1967 a detailed letter went to claimant suggesting he seek assistance from the Bank of Nova Scotia and specifically suggesting he address the Commission requesting assistance in obtaining evidence from the Registry of Wills in Cuba; and additionally suggesting he contact his sister, now in this country; and the attorney who handled the inheritance.

Thereafter claimant submitted an affidavit of the former business partner which relates that he, claimant and claimant's uncle went to the Bank of Nova Scotia to deposit the \$40,000 in an account. This was not permitted, it is said, nor was it permitted at the Trust Company of Cuba. Accordingly, affiant states that claimant and he agreed to place the money in his safe deposit box at the Trust Company of Cuba. This, affiant continues, was done by him while accompanied by a notary. In May, 1961, he was not allowed to open his box, being informed that the Cuban Government had taken control of all deposit boxes.

The record in this matter has been carefully considered and the Commission holds that the evidence is of insufficient probative value to establish that the claimant owned \$40,000 and whether it was deposited in the Bank of Nova Scotia in his sister's name, or whether it was placed in the safe deposit box of the former business partner.

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 hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

SEP 4 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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).)

CU-2063