

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

IN THE MATTER OF THE CLAIM OF

MARLON E. WILLSON
CYNTHIA B. WILLSON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2806

Decision No. CU -668

AMENDED PROPOSED DECISION

Under date of November 15, 1967, this claim, in the amount of \$34,152.35, was denied on the ground that claimants had failed to meet the burden of proof. Subsequently, additional evidence was submitted.

Upon consideration of the foregoing, it is

ORDERED that the Proposed Decision be and it is hereby amended.

The record now establishes that both claimants have been nationals of the United States since birth. The evidence also includes supporting evidence in the form of affidavits from individuals having personal knowledge of the facts.

On the basis of all the evidence of record, the Commission finds that claimants, husband and wife, owned certain personal property, such as furniture, home appliances and house furnishings situated in their apartment in Havana, Cuba; and that they also owned an automobile as well as furniture, home appliances and furnishings situated in a country home in suburban Havana.

Said country home is stated to have been owned by a Cuban corporation, Granja Los Americanos, S.A., which is one of two Cuban corporations involved in another proceeding before the Commission (Claim No. CU-2839), that will be decided on its own merits. It appears that both claimants herein may also have interests, direct or indirect, in that other claim. A portion of this claim is based upon an asserted debt of the said Cuban corporation

owing to CYNTHIA B. WILLSON in the amount of \$13,036.35. The Commission deems it more appropriate to decide that portion of this claim in Claim No. CU-2839 than in this one. Accordingly, no determination thereof will be made in this claim, and it is therefore

ORDERED that Claim No. CU-2839 be amended to include that portion of this claim.

Claimants have stated that they were forced to leave Cuba late in 1960 after their asserted business interests (which are the subjects of Claim No. CU-2839) were taken by Cuba, and that they could not take their personal property with them.

Law 989, published in the Cuban Official Gazette on December 6, 1961, by its terms effected a confiscation of all goods and chattels, rights, shares, stocks, bonds, bank accounts and other securities of persons who left the country of Cuba. In the absence of evidence to the contrary, the Commission finds that claimants' above-described properties were 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].)

Claimants have stated that most of the personal property involved in this claim was practically new on the date of loss; that they were married in August 1958 and that many of the more expensive items including silverware, antiques and chinaware were wedding gifts.

On the basis of all the evidence of record, the Commission finds that on December 6, 1961, claimants sustained a loss in the amount of \$21,072.00 within the meaning of Title V of the Act.

The Commission has decided that in certification of losses 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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that MARLON E. WILLSON and CYNTHIA B. WILLSON 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 Twenty-one Thousand Seventy-two Dollars (\$21,072.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

MAR 14 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY DEPARTMENT: These claimants may be the subject of another certification of loss in CU-2839.

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 Amended 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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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 \$34,152.35, was presented by MARLON E. WILLSON and CYNTHIA B. WILLSON and is based upon the asserted loss of certain personal property. No evidence was submitted concerning the nationality of claimants.

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).)

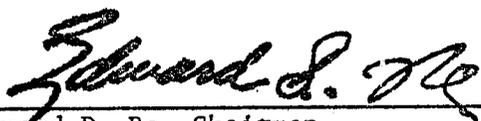
Claimants state that they maintained an apartment in Miramar, Cuba, and a country home in Guiro de Bonigal, La Salud, Cuba, and that all of the personal property situated therein was taken by the Government of Cuba. Claimants also state that they lost certain monies advanced to Granja Los Americanos, S.A., a Cuban corporation, and an automobile as a result of actions by the Government of Cuba. No evidence in support of this claim has been submitted.

By Commission letter of July 28, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act. No response was received to this correspondence. On September 5, 1967, claimants were invited to submit any evidence available to them within forty-five (45) days from that date, and they were informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has been submitted.

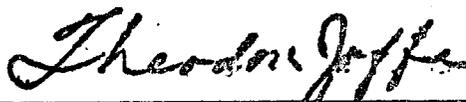
The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby 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

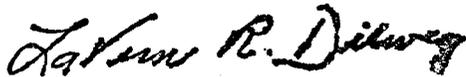
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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