

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

IN THE MATTER OF THE CLAIM OF

ALBERT JULIUS LOCHER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3086

Decision No. CU 2033

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 \$17,228.70, was presented by ALBERT JULIUS LOCHER and is based upon the asserted loss of a house, furnishings, and dental office equipment. 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).)

Claimant asserts the loss of a house, furnishings, and certain dental office equipment. In support of the claim, claimant submitted evidence of his United States nationality, a contract of purchase of a house in Cuba, a contract to purchase office dental equipment, a purchase receipt for certain furniture, promissory note pertaining to payment on equipment, a list of personal property and a marriage certificate.

The evidence indicated that the house was purchased by Miss Yolanda Buch Y Masforroll on January 28, 1960. On January 29, 1960 claimant married Yolanda Buch Y Masforroll, a Cuban citizen, who subsequently became a naturalized United States citizen on February 9, 1965. Other items claimed appeared to have been the property of claimant's wife at the time of the asserted loss in September, 1960. Accordingly, by Commission letter of March 12, 1968, claimant was informed that the property subject of the claim must have been owned by a national of the United States on the date of loss and the claim must have been continuously so owned thereafter

to the date of filing with the Commission. Claimant was advised that evidence should be submitted, to establish the loss of property, if any, in which he had an ownership interest. However, no evidence in response to this correspondence has been received to date.

On April 22, 1968, claimant was again invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership by a national of the United States of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is 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

26 JUN 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- 3086