

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

IN THE MATTER OF THE CLAIM OF

WILLIAM H. WILSON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3409

Decision No. CU

3909

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 WILLIAM H. WILSON for \$29,372.63 based upon the asserted ownership and loss of personal property including debts due from Cuba and a Cuban enterprise. 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.

Claimant describes his loss as follows:

Bank deposit	\$ 300.00
Personal property	3,990.00
Refund due on air line ticket	82.63
Debt due from Government of Cuba for engineering services of father	<u>25,000.00</u>
	\$29,372.63

Based upon the entire record, the Commission finds that claimant owned an interest in personal property, such as home furnishings on a listing submitted. Pursuant to the community property law of Cuba his interest is limited to one-half.

Based on the foregoing and the evidence of record, the Commission finds that claimant's one-half interest in the personal property in Cuba was taken by the Government of Cuba on July 25, 1961. (See Claim of Jack Moss, Claim No. CU-0225, 25 FCSC Semiann. Rep. 52 [July-Dec. 1966].)

Claimant has also submitted two unused air line tickets, each costing \$82.63, one in his name and one in the name of his Cuban wife, issued by the Cia. Cubana de Aviacion S.A., on July 22, 1960, and each marked "Refundable only in Cuba". The records of the Commission reflect that this Cuban enterprise was nationalized by the Government of Cuba on June 15, 1961.

Accordingly, the Commission finds that claimant suffered a loss in the amount of \$82.63 within the meaning of Title V of the Act as the result of the nationalization of Cia. Cubana de Aviacion S.A. on June 15, 1961.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account

the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes, in support of the claimed values a listing of the personal property items including furniture and electrical appliances. The Commission finds that \$2,990.00 represents the fair value thereof of which one-half, or \$1,495.00, is certifiable to the claimant.

The Commission finds that an asserted bank account in the amount of \$300.00 has not been established. Further, the Commission cannot find that \$1,000.00 is the reasonable value of items described only as "miscellaneous". Accordingly, these items of claim are denied.

Claim has also been made in the amount of \$25,000.00, described by claimant as a claim against the Cuban Government for engineering services by his father, William A. Wilson, as a preliminary study of a new water supply for Santiago, Cuba. Claimant states that plans were drawn, specifications presented were used by the Government, that the job was completed, a tunnel and dam were built but no payment made.

Claimant has submitted his own and another affidavit in support of this item of claim. In his letter to the Commission, of March 25, 1968, claimant states that he and his father made the preliminary study in 1923 and that the final study was made in 1925 by the Cuban Government in conjunction with claimant and his father.

According to the laws of Cuba, actions for which no special period of limitation is stipulated must be brought within 15 years.

However, an action for performance of the obligation to pay experts their fees and expenses is barred after three years. (See Lanzas, A Statement of the Laws of Cuba in Matters Affecting Business, 317 [2d ed. 1958], citing articles 1964, 2d part, and 1967, of the Civil Code.)

The Commission holds that the actions cited as the basis of the claim for \$25,000.00 are too remote in time to be held attributable to the Government of Cuba as arising for the first time after January 1, 1959, in the absence of specific evidence of a refusal by the Castro regime to pay the item.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$1,577.63 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba.

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, as follows:

<u>FROM</u>	<u>ON</u>
June 15, 1961	\$ 82.63
July 25, 1960	<u>1,495.00</u>
	\$1,577.63

CERTIFICATION OF LOSS

The Commission certifies that WILLIAM H. WILSON 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 One Thousand Five Hundred Seventy-seven Dollars and Sixty-three Cents (\$1,577.63) with interest at 6% per annum from the aforesaid dates to the date of settlement.

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

SEP 24 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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).)