

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

IN THE MATTER OF THE CLAIM OF

CINERAMA, INCORPORATED

Claim No. CU-3500

Decision No. CU 1975

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Swerdlow, Glikbarg, Shimer, Esqs.  
by: Harry B. Swerdlow, Esq.

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 \$124,500, was presented by CINERAMA, INC., and is based upon the asserted loss of certain personal property located in Cuba. An officer of claimant has certified that claimant corporation was organized under the laws of the State of New York, and that at all times pertinent to this claim, more than 50% of claimant's outstanding capital stock was held by persons who were nationals of the United States.

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, CINERAMA, INCORPORATED, asserts a claim against the Government of Cuba for certain personal property consisting of motion picture exhibition equipment, lenses, projectors, sound equipment and prints of motion pictures leased to Radio Centro Theatre in Havana, Cuba from January 9, 1958 to September 11, 1958. Claimant further asserts that this leased property was never returned to CINERAMA, INCORPORATED and was expropriated by the Government of Cuba subsequent to January 1, 1959. The record in this claim contains a statement of the claim filed on May 26, 1967; a list of items said to be generally contained in one set of leased Cinerama Exhibition Equipment; and an affidavit by an officer of claimant corporation asserting a loss in the total amount of \$124,500. However, no additional evidence of probative value has been received by the Commission in support of this claim.

By Commission letter of June 30, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Specifically, the Commission made suggestions to claimant,

through counsel, concerning the submission of supporting documentary evidence to establish the ownership, value and loss of the subject property. However, no response to this correspondence has been received to date.

On March 20, 1968, counsel was 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 it 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 make determinations with respect to other elements of the claim.

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

JUN 13 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, 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-3500