

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

IN THE MATTER OF THE CLAIM OF

JAMES S. SORRELS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0003

Decision No. CU-
3383

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 \$176,741.00, was presented by JAMES S. SORRELS, and is based upon the loss of a converted P.T. boat, equipment, personal effects and loss of income incident to certain contractual rights assertedly held by claimant. Claimant stated that he 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.

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).)

The claimant herein stated that the Cuban revolutionary forces transferred ownership of a converted P.T. boat to him which was known as the "Aztec" and was formerly owned by the Government of Cuba; and that agents of the Castro regime seized the boat, with diving equipment and other personal property, in February 1960. Further, the claimant stated that he was then forced to leave Cuba and lost the aforesaid property and income incident to contractual rights connected with his employment.

By Commission letter of May 27, 1966, claimant was advised as to the type of evidence proper for submission to establish this claim under the provisions of the Act. Thereafter, the Commission made additional suggestions to claimant in letters of February 14, 1967, May 26, 1967, and May 23, 1968, with respect to the submission of supporting evidence pertaining to loss of contractual rights or ownership, loss and value of the properties, subject of the claim. Extensions of time were given by the Commission to the claimant to enable him to submit supporting evidence. The claimant advised, however,

that he was unable to obtain additional data relating to the subject properties or contractual rights.

Evidence available to the Commission disclosed that the boat, known as the "Aztec", was apparently not registered in the merchant registry of Cuba prior to or when assertedly transferred to the claimant by the Revolutionary government. Accordingly, in Commission letters of October 2, 1968, and October 21, 1968, additional suggestions were made to the claimant herein in connection with the submission of supporting evidence to establish the respective portions of his claim. However, no evidence in response to these suggestions has been received to date.

The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. Thus, the Commission is constrained to find that claimant herein 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,

the Commission is also 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

DEC 11 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).)

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