

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

IN THE MATTER OF THE CLAIM OF

OVIDIO MANUEL ALVAREZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0199

Decision No. CU

3750

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 OVIDIO MANUEL ALVAREZ based upon various securities and bank accounts in Cuba. Claimant has been a national of the United States since his naturalization in 1931.

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 has described his asserted losses as follows:

(1) 38 First Mortgage Bonds of Cia. de Mercados Publicos, S.A.	\$ 3,800.00
(2) 6 Second Mortgage Bonds of the above company	2,746.92
(3) 5 Series C 5% Bonds of Cia. Cubana de Electricidad	4,650.00
(4) 5 4-1/2% Debentures of the above company	3,362.50
(5) 300 common shares of said Cia. Cubana de Electricidad	6,300.00
(6) 100 preferred shares of Cuban Telephone Co.	9,500.00
(7) Savings account, No. 3829 in Bank of Nova Scotia	68.75
(8) Current account in Bank of Nova Scotia	844.48
(9) Current account with J. B. Diaz & Co., S. en C.	<u>3,932.59</u>
	\$35,205.24

Evidence of record includes a letter on the letterhead of J. B. Diaz & Co., S. en C., dated December 10, 1959, reflecting that because of conditions in Cuba, \$3,200 had been withdrawn from claimant's Savings Account No. 3829 in the Bank of Nova Scotia, leaving a balance of \$68.75; the \$3,200 being added to his account with Diaz & Co., and a statement of that company as of April 30, 1960, showed a balance in claimant's favor of \$3,932.59. The record also includes a statement of Banco Nacional de Cuba, for the former Royal Bank of Canada, showing a balance of \$830.23 in claimant's favor on June 30, 1961, later reduced by one dollar by the bank for its bookkeeping expenses. Moreover, The Royal Bank of Canada, acquired by the Banco Nacional de Cuba, issued a receipt for \$4.10 on August 16, 1961, for safe-keeping of securities from August 30, 1961 to December 31, 1961. Claimant assumes the mentioned securities are the Mercados Publicos bonds, as well as the Cuban Electric bonds. Claimant's uncle, in a letter of August 31, 1960, informed the American Embassy in Cuba that the bonds and stock shares had at that writing been confiscated by law. Claimant stated in a letter received

in the Commission on October 19, 1968, that the Cuban Electric shares and Cuban Telephone shares were kept in the safe of J. B. Diaz & Cia., S. en C., and by a later letter indicated they were in another location in Cuba. Claimant has also supplied the certificate numbers of the stocks and bonds claimed.

The records of the Commission disclose that J. B. Diaz & Cia., S. en C., was intervened by the Government of Cuba by Resolution 20260 of September 15, 1960, and that it was later nationalized. The Commission finds that the debt of this company, to claimant, in the amount of \$3,932.59 constituted property within the meaning of Title V and concludes that claimant suffered a loss in that amount as a result of the intervention and nationalization of J. B. Diaz & Cia. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

Law 989, published in the Cuban Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left Cuba. The Commission finds that claimant's bank accounts of \$68.75 and \$830.23 were taken by the Government of Cuba on December 6, 1961, and concludes that he suffered a loss in that amount within the meaning of Title V of the Act. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

The Commission finds that the evidence of record is of insufficient probative value to establish that claimant owned and lost an interest in the bonds and debentures above described. Accordingly, these items of claim are denied, and the Commission finds it unnecessary to determine whether they came within the scope of Title V or had any value.

With respect to shares of stock in Cuban Electric Company and Cuban Telephone Company, although the Commission finds that claimant has not established his ownership thereof, nevertheless these companies are nationals of the United States and have filed their own claims within the Commission. Accordingly, claim based on ownership interests therein must be denied. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FCSC Semiann. Rep. 48 [July-Dec. 1966].)

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.

CERTIFICATION OF LOSS

The Commission certifies that OVIDIO MANUEL ALVAREZ 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 Four Thousand Eight Hundred Thirty-one Dollars and Fifty-seven Cents (\$4,831.57) with interest thereon at 6% per annum from the respective dates of taking to the date of settlement.

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

JUL 23 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].)