

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

IN THE MATTER OF THE CLAIM OF

C. OSMENT MOODY AND
MARGARET MOODY
AND
CLARENCE B. MOODY AND
LILY MOODY

Claim No. CU -1295
CU-1296

Decision No. CU -3390

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Eugene Carusi, Esq.

PROPOSED DECISION.

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amounts of \$10,200.00 and \$23,000.00, respectively, were presented by C. OSMENT MOODY and MARGARET MOODY, and CLARENCE B. MOODY and LILY MOODY, based upon the asserted loss of certain personal property. All of the claimants have been nationals 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.

The record shows that C. OSMENT MOODY and his wife, MARGARET MOODY, occupied a fourth-floor apartment at Marina No. 61, Havana, Cuba, which they had rented unfurnished. CLARENCE B. MOODY and his wife, LILY MOODY, parents of C. OSMENT MOODY, occupied a third-floor apartment in the same building. Both families furnished their respective apartments and lived in Cuba in order to supervise land reclamation operations that were being carried on in and around Varadero, Cuba by American corporations which were owned by these two families. The claim filed by said corporations (Claim No. CU-0219) will be decided on its own merits.

The evidence includes affidavits from a Cuban lawyer, formerly employed by the said corporations, from former employees of Mr. C. OSMENT MOODY and Mr. CLARENCE B. MOODY, affidavits from these two claimants, and statements and other related information contained in the files of the Department of State which have been incorporated into the record on Claim No. CU-0219. The foregoing affidavits were prepared on the basis of personal knowledge of the pertinent facts.

Upon consideration of the entire record, the Commission finds, as follows:

1. That C. OSMENT MOODY owned furniture and other household possessions maintained in his apartment in Havana, Cuba, which had a value of \$3,700.00;
2. That C. OSMENT MOODY also owned a 29' yacht called "OSMAR", which was anchored in Varadero, Cuba, and had a value of \$4,500.00;
3. That C. OSMENT MOODY and his wife, MARGARET MOODY, jointly owned clothing and other personal effects maintained in their Havana apartment, which had a value of \$2,000.00;
4. That CLARENCE B. MOODY owned furniture and other household possessions maintained in his Havana apartment, which had a value of \$5,500.00;
5. That CLARENCE B. MOODY also owned seven 28-foot boats anchored at Varadero, Cuba, which had an aggregate value of \$14,000.00;

6. That CLARENCE B. MOODY and his wife, LILY MOODY, jointly owned clothing and other personal effects maintained in their Havana apartment, which had a value of \$3,500.00; and

7. That all of the foregoing property was taken by the Government of Cuba on November 7, 1959 without compensation.

Accordingly, the Commission concludes that claimants sustained losses of property within the meaning of Title V of the Act, as follows:

C. OSMENT MOODY	\$ 8,200.00
C. OSMENT MOODY and MARGARET MOODY	2,000.00
CLARENCE B. MOODY	19,500.00
CLARENCE B. MOODY and LILY MOODY	3,500.00

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 cases it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that C. OSMENT MOODY 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 Eight Thousand Two Hundred Dollars (\$8,200.00) with interest thereon at 6% per annum from November 7, 1959 to the date of settlement;

the Commission certifies that C. OSMENT MOODY and MARGARET MOODY 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 Two Thousand Dollars (\$2,000.00) with interest at 6% per annum from November 7, 1959 to the date of settlement;

the Commission certifies that CLARENCE B. MOODY 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 Nineteen Thousand Five Hundred Dollars (\$19,500.00) with interest at 6% per annum from November 7, 1959 to the date of settlement; and

the Commission certifies that CLARENCE B. MOODY and LILY MOODY 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 Three Thousand Five Hundred Dollars (\$3,500.00) with interest at 6% per annum from November 7, 1959 to the date of settlement.

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

DEC 18 1968

Leonard v. B. Sutton

Leonard v. P. 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).)