

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

IN THE MATTER OF THE CLAIM OF

JOHN KENNETH ESTES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2058

Decision No. CU -
3557

PROPOSED DECISION

This claim against the Government of Cuba under Title V of the International Claims Settlement Act of 1949, as amended, for \$28,000 was presented by JOHN KENNETH ESTES based upon the asserted loss of personalty. 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 contends that he and his wife owned household furnishings valued at \$2,000 and an automobile valued at \$1,000; and that in addition he owned a yacht purchased from the proceeds of property he owned in the United States States prior to his marriage.

Based on the entire record, including affidavits of claimant and others, the Commission finds that claimant and his wife owned the furnishings of a 5-room house, including a glass-topped dining room table, chairs, sideboard, refrigerator, stove, dishes and other usual household furnishings; a 1955 Plymouth 4-door sedan; and in addition claimant owned a 40' sailing yacht; and further, that these properties were seized by the Government of Cuba on January 15, 1961, during his absence from Cuba.

In arriving at the value of the properties, the Commission has considered all evidence of record, including affidavits, descriptions and a photograph of the yacht, and finds that claimant's one-half interest in the personal property, including the automobile, had a value of \$1,350.00; and that the yacht had a value of \$25,000.00. No certification of loss may be made with respect to the interest in the personalty which belonged to claimant's wife, who is not a claimant herein, inasmuch as she was not a national of the United States on the date of loss of the property. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$26,350.00 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on January 15, 1961.

The Commission has decided that in certification of loss 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that JOHN KENNETH ESTES 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 Twenty-Six Thousand Three Hundred Fifty Dollars (\$26,350.00) with interest at 6% per annum from January 15, 1961 to the date of settlement.

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

MAR 18 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).)