

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

IN THE MATTER OF THE CLAIM OF

WILLIAM A. WEST, JR.
DAILIA C. WEST
ESTATE OF WILLIAM A. WEST, SR.,
DECEASED
ZOE KENT COOK
MARION KENT KIDDER
STEWART PRESTON KENT
MARTIN M. LYNCH
LUELLA MARION WOMACK KENT

Claim No. CU -2298

Decision No. CU -2907

**Under the International Claims Settlement
Act of 1949, as amended**

Counsel for claimants:

Thomas C. Tilley, Esq.

Petition to Reopen and include claimants MARTIN M. LYNCH and LUELLA MARION WOMACK KENT. Final Decision dated and entered October 20, 1971.

AMENDED FINAL DECISION

The Commission issued its Final Decision in this claim on October 20, 1971, certifying that the claimants named below suffered the following losses as a result of actions of the Government of Cuba:

WILLIAM A. WEST, JR.	\$795,431.05
DAILIA C. WEST	27,431.05
ESTATE OF WILLIAM A. WEST, SR.	16,000.00
ZOE KENT COOK	3,200.00
MARION KENT KIDDER	3,200.00
STEWART PRESTON KENT	3,200.00

Subsequent to the issuance of the Final Decision MARTIN M. LYNCH and LUELLA MARION WOMACK KENT requested that their interests also be considered in connection with the claim of the above claimants. Claimants have been nationals of the United States since birth.

The Commission now finds that MARTIN M. LYNCH was the owner of two (2) shares in the capital stock of the Antillian Lighterage Company, and LUELLA MARION WOMACK KENT the owner of twelve (12) shares in the stock of the same company, which was nationalized by the Government of Cuba on October 24, 1960. The Commission has determined that the value of each share of stock of the said company at the time of nationalization was \$320.00 and finds that the petitioners suffered the following losses:

MARTIN M. LYNCH	\$ 640.00
LUELLA MARION WOMACK KENT	3,840.00

with 6% interest per annum from October 24, 1960 to the date of settlement.

Accordingly, the following supplemental Certifications of Loss will be entered, and in all other respects the Final Decision, including the Certifications of Loss therein, as amended herein, is affirmed.

CERTIFICATIONS OF LOSS

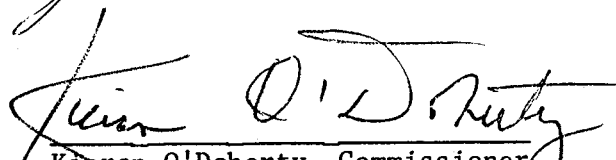
The Commission certifies that MARTIN M. LYNCH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Hundred Forty Dollars (\$640.00) with interest thereon at the rate of 6% per annum from October 24, 1960 to the date of settlement; and

The Commission certifies that LUELLA MARION WOMACK KENT 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 Eight Hundred Forty Dollars (\$3,840.00) with interest thereon at the rate of 6% per annum from October 24, 1960, to the date of settlement.

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

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, 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.

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

IN THE MATTER OF THE CLAIM OF

WILLIAM A. WEST, JR.
DAILIA C. WEST
ESTATE OF WILLIAM A. WEST, SR.
ZOE KENT COOK
MARION KENT KIDDER
STEWART PRESTON KENT

Claim No. CU-2298

Decision No. CU -2907

**Under the International Claims Settlement
Act of 1949, as amended**

Counsel for claimants:

Thomas C. Tilley, Esq.

Appeal and objections from a Proposed Decision entered August 21, 1968.

Oral hearing requested and held October 20, 1971. Testimony and argument by claimant William A. West, Jr.

FINAL DECISION

By Proposed Decision issued August 21, 1968, the Commission denied this claim filed by WILLIAM A. WEST, JR. for failure of claimant to establish his ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba.

Objections were entered and testimony was received at a hearing held on October 20, 1971. Additional evidence in support of the claim was submitted prior to the oral hearing. The Commission now finds as follows.

Claimants have been nationals of the United States at all times pertinent hereto. Claimants WILLIAM A. WEST, JR. and DAILIA C. WEST were the owners of a house and lot located at Calle 16, No. 37, Reparto Miramar, Marianao, Havana, Cuba, with the household furnishings and appliances, silverware and stamp collection located therein. Claimant WILLIAM A. WEST, JR. was also the owner of 2,400 shares of the outstanding capital stock of Antillian Lighterage Company, a Cuban corporation. Remaining claimants have been established as owners of Antillian Lighterage Company stock and have been joined in this claim. The ESTATE OF WILLIAM A. WEST, SR. was the owner of 50 shares of such stock. ZOE KENT COOK, MARION KENT KIDDER, and STEWART PRESTON KENT were the owners of 10 shares of Antillian stock each.

On the basis of evidence of record the Commission finds that the real and personal property belonging to claimants WILLIAM A. WEST, JR. and DAILIA C. WEST were taken on December 6, 1961 under Law 989 of that date. The Commission further finds that the value of the house and land at the time of loss was \$45,000.00, the personal property was \$8,915.00 and the stamp collection was \$947.10 and that each of the claimants suffered a loss in the amount of \$27,431.05 for the real and personal property taken that date, within the meaning of Title V of the Act.

The Commission has determined the net worth of the Antillian Lighterage Company, which was nationalized by the Government of Cuba on October 24, 1960 under Resolution No. 3, as being \$800,000.00 on the basis of the testimony and evidence of record. Thus each share of the outstanding 2,500 shares of capital stock had a value of \$320.00 per share.

Accordingly, the Commission holds that the shareholders suffered losses for their stock interest in Antillian as follows:

WILLIAM A. WEST, JR.	2,400 shares	\$768,000.00
ESTATE OF WILLIAM A. WEST, SR.	50 shares	16,000.00
ZOE KENT COOK	10 shares	3,200.00
MARION KENT KIDDER	10 shares	3,200.00
STEWART PRESTON KENT	10 shares	3,200.00
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	2,480 shares	\$793,600.00

The Commission has decided that in certifications 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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered as follows:

	<u>FROM</u>	<u>ON</u>
WILLIAM A. WEST, JR.	December 6, 1961	\$ 27,431.05
	October 24, 1960	768,000.00
DAILIA C. WEST	December 6, 1961	27,431.00
ESTATE OF WILLIAM A. WEST, SR.	October 24, 1960	16,000.00
ZOE KENT COOK	October 24, 1960	3,200.00
MARION KENT KIDDER	October 24, 1960	3,200.00
STEWART PRESTON KENT	October 24, 1960	3,200.00

Accordingly, the following Certifications of Loss will be entered and in all other respects the Proposed Decision, as amended herein, is affirmed.

CERTIFICATIONS OF LOSS

The Commission certifies that WILLIAM A. WEST, JR. 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 Seven Hundred Ninety-Five Thousand Four Hundred Thirty-One Dollars and Five Cents (\$795,431.05) with interest thereon at 6% per annum from the aforesaid dates of loss to the date of settlement;

The Commission certifies that DAILIA C. WEST 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-Seven Thousand Four Hundred Thirty-One Dollars and Five Cents (\$27,431.05) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement;

The Commission certifies that the ESTATE OF WILLIAM A. WEST, SR. 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 Sixteen Thousand Dollars (\$16,000.00) with interest thereon at 6% per annum from October 24, 1960 to the date of settlement;

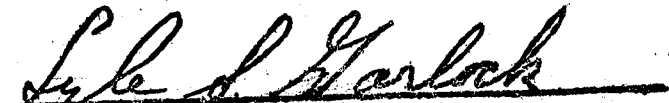
The Commission certifies that ZOE KENT COOK suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Thousand Two Hundred Dollars ((\$3,200.00) with interest thereon at 6% per annum from October 24, 1960 to the date of settlement;

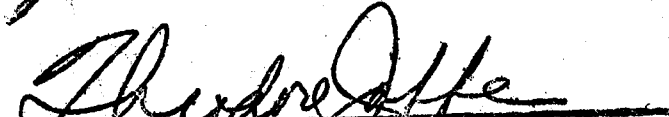
The Commission certifies that MARION KENT KIDDER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Thousand Two Hundred Dollars (\$3,200.00) with interest thereon at 6% per annum from October 24, 1960 to the date of settlement; and

The Commission certifies that STEWART PRESTON KENT 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 Two Hundred Dollars (\$3,200.00) with interest thereon at 6% per annum from October 24, 1960 to the date of settlement.

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

OCT 20 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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

IN THE MATTER OF THE CLAIM OF

W. A. WEST, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2298

Decision No. CU 2907

Counsel for claimant:

Thomas C. Tilley, 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 \$1,190,820.00, was presented by W. A. WEST, JR., and is based upon the asserted loss of a stock interest in Antillian Lighterage Company, a Cuban corporation, and the loss of improved real property and personal property located in Havana, Cuba. Claimant has been a national of the United States since his 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).)

In support of this claim filed on April 27, 1967, claimant submitted the following evidence: a photocopy of his birth certificate; a four page schedule of asserted losses; photocopies of provisional stock certificates issued by Antillian Lighterage Company; several third party affidavits referring to claimant's stock ownership in Antillian Lighterage Company and the value of said company's assets; a copy of an excerpt from the Cuban Official Gazette, and other correspondence relating to the nationalization of the assets of Antillian Lighterage Company; a two page photostatic copy of an undated and unsigned list of silverware; and a photostatic copy of a bill of sale of a 1952 automobile to claimant.

By Commission letter of December 19, 1967, suggestions were made to claimant, through counsel, regarding the type of additional evidence proper for submission to establish his claim. Specifically, it was suggested that claimant submit the following additional evidence and information: original stock certificates as proof of ownership of stock in Antillian Lighterage Company; financial records relating to the operations of Antillian Lighterage Company during the years 1958, 1959, and 1960;

requests for Commission assistance in obtaining land title verification through official sources; additional evidence to establish the value of claimant's improved real property located in Havana, Cuba; a detailed inventory of claimant's stamp collection, indicating dates of purchase of the stamps and the value of the stamps on the date of loss; a detailed inventory of claimant's household appliances and furniture, indicating dates of purchase, model numbers or other identification; and an explanation as to depreciation considered by claimant in estimating the value of the personal items described in the schedule appended to his claim.

In response to a letter of January 3, 1968 from counsel advising that claimant would attempt to submit additional evidence, the Commission by letter of January 18, 1968 suggested that the additional evidence be submitted within 45 days. No additional evidence or information has been submitted since the Commission's letter of January 18, 1968; neither has claimant nor counsel corresponded further with the Commission.

The Commission therefore finds that claimant 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, this claim is 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

AUG 21 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).)

CU-2298