

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

IN THE MATTER OF THE CLAIM OF

LEONARDO BELLO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2520

Decision No. CU-1934

Counsel for claimant:

Reich and Reich

Appeal and objections with respect to a Proposed Decision entered on
May 28, 1968. Oral hearing not requested.

Hearing on the record held on April 21, 1971.

FINAL DECISION

Under date of May 27, 1968 the Commission issued its Proposed Decision on this claim, denying the same because claimant failed to establish that he owned any property which was nationalized or taken by the Government of Cuba.

Claimant objected to the Proposed Decision and stated that he would attend an oral hearing, if the Commission would consider such hearing helpful. Claimant through counsel was advised that it is up to him to request the hearing, but no such request was presented.

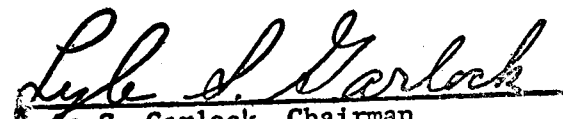
In his objections claimant contended that the certificates of exemption granted by the Cuban Government by themselves represent the ownership of the deposited funds and that the owner of the certificates was also the owner of the funds.


The Commission has considered claimant's contentions, and finds that the certificates in question allowed Mr. Alexander S. Ritter to remit \$50,000.00 from Cuba to the United States in United States currency without

payment of a 2% transfer tax established by Cuban Law No. 7 of April 5, 1943. The certificates are not evidence of any funds deposited with banks in Cuba, and the record does not establish that claimant had such funds or any other property which was nationalized or taken by the Cuban Government. In the absence of such evidence, the Proposed Decision of May 28, 1968 is affirmed.

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

MAY 5 1978


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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Reich and Reich
By Edward S. Reich, 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 \$50,000.00, was presented by LEONARDO BELLO, and is based on his asserted interest in two certificates of exemption of tax on the exportation of money. Claimant has been a national of the United States since his birth in the United States.

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).)

If available, all exhibits and documents shall be filed with and at the same time as the claim, and shall, wherever possible, be in the form of original documents. . . (FCSC Reg., 45 C.F.R. §531.3(a) (Supp. 1967).)

Claimant asserts this claim on the basis of his asserted ownership of two "Certificates of Exemption of Tax on Exportation of Money" (Certificados de Exencion del Impuesto sobre Exportacion de Dinero) issued by the Fondo de Estabilizacion de la Moneda and Banco Nacional de Cuba. Claimant has submitted photocopies of two such certificates, each in the amount of \$25,000.00, and issued to one Alexander S. Ritter. Claimant asserts that he owns the original certificates and that they are available; however, claimant has not submitted the original certificates or any evidence to establish ownership of them. The only original documentary evidence submitted by claimant in support of this claim is a certified copy of his birth certificate. The record is unclear whether the claim is being asserted on the basis of the certificates alone, or whether ownership of funds deposited in Cuban bank is also asserted.

By Commission letter of February 12, 1968, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Specifically, it was suggested that the original certificates be submitted, together with evidence to establish ownership of the certificates and any deposited funds that might form the basis of the claim. Claimant was also advised of the need to establish that this claim was continuously owned by a national of the United States from the date of loss to the date on which the claim was filed with the Commission. Other suggestions concerning the submission of supporting evidence were also made.

At claimant's request, extensions of time for the submission of evidence were granted on March 18, 1968 and April 16, 1968. By its letter of April 16, 1968, the Commission advised claimant, through counsel, that the suggested evidence should be submitted within 30 days, and counsel was informed that, absent such evidence, it might become necessary to determine this claim on the basis of the existing record. No evidence has since been submitted.

The Commission 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

MAY 29 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt 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).)