

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

IN THE MATTER OF THE CLAIM OF

GEORGE W. FUGATE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2949

Decision No. CU 1983

Counsel for claimant:

Turner, Shaw & Moore

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 \$12,000.00, was presented by GEORGE W. FUGATE, and is based upon the asserted loss of a motor vessel, the Mollie O II. Claimant stated that he 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).)

Claimant submitted no evidence in support of his claim, filed on May 1, 1967. Accordingly, by Commission letter of February 29, 1968, suggestions were made to claimant, through counsel, regarding the type of evidence proper for submission to establish this claim under the Act. Specifically, it was suggested that claimant submit evidence to establish the date of loss; the fact that the loss occurred as a result of actions of the Government of Cuba; the value of the vessel on the date of loss; and information and documents pertaining to a suit filed against one Carlos E. DeLeon by claimant, assertedly arising from the loss of the claimed property.

In response to the suggestions set forth in the Commission's letter of February 29, 1968, counsel indicated in a letter of March 26, 1968 that claimant was attempting to secure supporting evidence. Upon this advice by

counsel, the Commission by letter of April 1, 1968 suggested that the previously requested evidence and information be submitted within 45 days from that date. However, no evidence or information has been received since the Commission letter of April 1, 1968; neither has claimant nor counsel corresponded further with the Commission.

Although other evidence available to the Commission establishes that claimant was the record owner of the motor vessel, Mollie O II, he has not established that the vessel was expropriated or otherwise lost as a result of actions of the Government of Cuba after January 1, 1959; neither has claimant established the value of subject vessel. Accordingly, this claim is hereby 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

JUN 13 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 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).)