

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

IN THE MATTER OF THE CLAIM OF

LEON PAUL EDWARDS
VERNA GUEST EDWARDS

Claim No. CU - 2854

Decision No. CU 2856

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$34,198.21, was presented by LEON PAUL EDWARDS and VERNA GUEST EDWARDS and is based upon the asserted loss of a bank account and household personal property situated in Cuba. Each claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949, as amended, [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.

Claimants state that they resided at La Playa y Calle 64, Veradero, Cuba and that on November 8, 1961 while claimants were on holiday in the United States, agents of the Government of Cuba entered claimants' residence and removed all household furnishings, clothing, recreational equipment, appliances and other personal property found therein. Claimants state that they were unable to return to Cuba after the date of the asserted confiscation.

In support of their contentions, claimants have submitted a sworn listing of their personal property, together with a value ascribed to each item. In addition, claimants have submitted the affidavits of Drs. Carlos R. Jones and Ernesto Castro, both Cuban attorneys, and both assertedly long-time friends of the claimants. Each affiant states that he had visited claimants' residence on many occasions, that he was thoroughly familiar with claimants' household possessions, and that the listing, with values, submitted by claimants represents an accurate depiction of both the nature and value of claimants' goods. The affiants also state that claimants' goods were taken by representatives of the Cuban Government on or shortly after November 8, 1961.

Evidence available to the Commission establishes that during and after the year 1960, officials of the Cuban Superior Council on Urban Reform were systematically sealing all unoccupied dwellings in Cuba, and further, that Urban Reform Inspectors were disposing of all goods found in such dwellings. (See Claim of Jack Moss, Claim No. CU-0255, 25 FCSC Semiann. Rep. 52 [July - Dec. 1966]). Consequently, the Commission finds that claimants' property was taken by the Government of Cuba, within the meaning of Title V of the Act, and that, in the absence of evidence to the contrary, the loss to claimants occurred on November 8, 1961.

The Act provides in Section 503(a) that in making determinations with respect to the value of properties, rights and interests taken by the Cuban Government, the Commission shall take into account the basis of valuation

most appropriate to the property and most equitable to the claimant. The Commission has carefully considered all the evidence of record pertaining to value, and finds that the amount of \$33,807.00 is a fair value for the property taken by the Government of Cuba on November 8, 1961. The Commission concludes, therefore, that claimants suffered a loss in that amount, within the meaning of Title V of the Act,

Claimants also assert the loss of a bank account in Cuba, in the amount of \$1,391.21. In support of this contention, claimants have submitted a verified photographic copy of an account statement issued by the Trust Company of Cuba. The account statement shows that as of May 31, 1961, the bank held \$1,391.21 to the account of LEON PAUL EDWARDS.

Cuban Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who had left the country of Cuba. This included such bank accounts that had not been confiscated or otherwise taken by prior Cuban enactments. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July - Dec. 1966].) In the absence of evidence to the contrary, the Commission finds that the above-described bank account, amounting to 1,391.21 pesos, was taken by the Government of Cuba on December 6, 1961. The Commission further finds that on December 6, 1961, the 1,391.21 pesos had a value of \$1,391.21, and that claimants suffered a loss in that amount.

The Commission concludes that the total amount of loss sustained by claimants, as a result of the actions of the Government of Cuba, was \$34,198.21.

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 Claim of Lisle Corporation, Claim No. CU-0644.)

Consequently, the Commission concludes that the amounts of loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from November 8, 1961 as to \$33,807.00, and from December 6, 1961 as to \$1,391.21, until the date upon which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that LEON PAUL EDWARDS and VERNA GUEST EDWARDS jointly suffered a loss, as a result of the 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 Thirty-Four Thousand One Hundred Ninty-Eight Dollars and Twenty-One Cents (\$34,198.21) with interest thereon at the rate of 6% per annum from the respective dates of loss to the date of settlement.

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

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).)