

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

IN THE MATTER OF THE CLAIM OF

MORRIS SOBEL

Claim No. CU-3641

Decision No. CU -404

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Maxwell M. Booxbaum, Esq.

Appeal and objections from a Proposed Decision entered October 4, 1967; Oral hearing requested and scheduled for December 12, 1967, at 2:00 p.m. at the offices of the Commission, 1111-20th Street, N.W., Washington, D.C., with due notice thereof given to the claimant. No request for a continuance was made and claimant failed to appear in person or by attorney at the scheduled time.

FINAL DECISION

By Proposed Decision issued on October 4, 1967 this claim was denied for failure of proof in that claimant failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Claimant objected to the Proposed Decision and requested an oral hearing.

Full consideration having been given to the entire record, including claimant's objections, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

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

20 DEC 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

MORRIS SOBEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3641

Decision No. CU 404

Counsel for claimant:

Maxwell M. Booxbaum, 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 \$5,000.00, was presented by MORRIS SOBEL and is based upon the asserted loss of a debt owed by a Cuban enterprise. Claimant has been a national of the United States since his naturalization on September 17, 1936.

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 contends that on or about July 17, 1958 he loaned the sum of \$20,000.00 to Compania Aire Acondicionada Stuart de Cuba, S. A., to be repaid at the rate of \$1,000.00 per month. Claimant indicates that he has received \$15,000.00 on the outstanding loan. On July 22, 1959, claimant states he received a check for \$2,500.00 drawn by the aforesaid enterprise on Banco Financiero, Habana, Cuba with claimant as designated payee; and on August 22, 1959, he received a similar check in the amount of \$2,500.00 representing final payment on the subject loan. According to claimant, the drawer had about \$40,000.00 on deposit with the drawee bank at the time of issuance of the checks. Claimant further states that he presented the first of the above-mentioned checks for collection to the Corn Exchange Bank on July 30, 1959, but that said check was returned unpaid with the information that the drawee refused to honor any checks payable to United States citizens.

In addition to his own affidavit, claimant has submitted two checks drawn by Compania Aire Acondicionada Stuart de Cuba, S. A. on Banco Financiero and payable to claimant. One check, dated July 22, 1959,

had been presented for collection on July 30, 1959 at the Chemical Corn Exchange Bank, New York; no reason for nonpayment appears on the check. The second check, dated August 21, 1959, has not been presented for collection.

By Commission letter of July 18, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of August 7, 1967, the Commission made additional suggestions to claimant, through counsel, concerning the submission of supporting evidence in this matter. However, except as mentioned hereinabove, the suggested evidence has not been submitted.

By the last-mentioned letter, counsel was invited to submit any evidence available to him within 45 days, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence in response to this correspondence has been received to date.

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

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taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it 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

OCT 4 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, 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).)