

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

IN THE MATTER OF THE CLAIM OF

THEODORE H. OLLESHEIMER, AS
ADMINISTRATOR, ESTATE OF
SIDNEY ROTHSCHILD, DECEASED

Claim No. CU -0840

Decision No. CU 3385

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Arthur E. Fixel, 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 \$19,566.00, was presented by THEODORE H. OLLESHEIMER, AS ADMINISTRATOR, ESTATE OF SIDNEY ROTHSCHILD, DECEASED, and is based upon the asserted loss of an interest in a certain business enterprise and a bank account. Evidence submitted by the claimant establishes that the decedent and the asserted beneficiary were nationals of the United States by 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).)

This claim is filed by the claimant as the Administrator of the Estate of Sidney Rothschild, Deceased. Lillian Rothschild claims to be the sole surviving heiress of Sidney Rothschild. No evidence was submitted other than a delayed birth certificate of Sidney Rothschild, a letter from the Bureau of Census dated November 3, 1964 establishing that Lillian (Rosenberg) Rothschild was a United States national by birth, and a copy of a letter from Evarista Herrera, asserted to be secretary of M. & E. Herrera Company, wherein he states that Sidney Rothschild owned 1/3 of the business as a silent partner and that he had a savings account at the First National City Bank of New York.

By Commission letter of October 12, 1966, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. On September 29, 1967, counsel was invited to submit any evidence available to him on or before November 1, 1967, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. On May 21, 1968, counsel was again

invited to submit any evidence available to him. By letter of November 11, 1968 counsel informed the Commission that he was unable to acquire any additional evidence since the Cuban Government had destroyed all records.

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. 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

DEC 18 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, 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).)