

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

IN THE MATTER OF THE CLAIM OF

SIDNEY BRILL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1317

Decision No. CU -1755

Appeal and objections from a Proposed Decision entered on
April 24, 1968.

FINAL DECISION

This claim, for \$33,000.00, based upon the asserted loss of the value of a cashier's check, was denied for failure of proof on April 24, 1968.

Claimant objected to the findings of the Commission contending that it had before it sufficient information upon which to make a favorable determination. Claimant stated he had the cashier's check in his possession but refused to forward it to the Commission for inspection. An oral hearing was scheduled for the claimant for June 18, 1968 at 2:00 P.M. The claimant, however, failed to appear. The Commission advised the claimant by letter of June 21, 1968 that it was allowing him thirty additional days from June 18, 1968 within which to bring or mail the original cashier's check for inspection, together with a statement that said cashier's check had not been paid and that claimant continuously owned same since its issuance. To date the claimant has not complied with the suggestions

set forth in the Commission's letter of June 21, 1968. The Commission has considered the entire record and finds that the claimant has failed to establish his claim and, accordingly, it is

ORDERED that the Proposed Decision be and it is hereby affirmed.

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

DEC 11 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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OF THE UNITED STATES**

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IN THE MATTER OF THE CLAIM OF

SIDNEY BRILL

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU-1317

Decision No. CU 1755

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 \$33,200.00, was presented by SIDNEY BRILL and is based upon the asserted loss of a bank check. Claimant stated that he has been a national of the United States since 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 asserts the loss of a cashier's check; however, other than a photocopy of the cashier's check, claimant has submitted no documentary evidence in support of his claim. By Commission letter of June 28, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letters of July 27, 1967, October 3, 1967 and April 9, 1968, the Commission made additional suggestions to claimant concerning the submission of supporting evidence in this matter. However, claimant did not submit evidence of his United States nationality or the original cashier's check.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership by a United States national 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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Cha'rman

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).)

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