

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

IN THE MATTER OF THE CLAIM OF

NIKOLA SEVERDIJA

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

Claim No. CU-8799

Decision No. CU 8810

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 \$60,000.00, was presented on July 8, 1971 by NIKOLA SEVERDIJA and is based upon the asserted loss of a vessel and personal property. Claimant has been a national of the United States since his naturalization on August 4, 1970.

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 Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967, (FCSC Reg., 45 C.F.R. Sec. 531.1(d) (1970)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g))

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.)

Although it appears that the claim arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has also held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

The evidence of record includes a certificate of registry, insurance appraisals for the subject vessel, a listing of personal property, a photograph of the vessel, and correspondence from the State Department files.

Based on the entire record the Commission finds that claimant, NIKOLA SEVERDIJA, was the owner of a vessel and personal property pertinent to the

use thereof, named the Sea Rover, which grounded within Cuban territorial waters on December 25, 1970. Claimant, his family and passengers were rescued by the United States Coast Guard and claimant was forced to leave his vessel in the hands of soldiers of the Cuban Government who boarded it on December 25, 1970. On March 1, 1971 the Cuban Government announced that the vessel had been totally destroyed.

The Commission finds that claimant's property was taken by the Government of Cuba on December 25, 1970.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

In determining the value of the vessel, the Commission has considered the photograph of the vessel; the fact that it was purchased and outfitted by claimant in 1970 and the 1968 and 1969 insurance appraisals. It finds that at the time of loss the vessel had a value of \$45,000.00.

With respect to the personalty aboard claimant's vessel, claimant has submitted a list of equipment, furniture and fixtures with asserted values for each item. It is not stated if the value represents the cost price or the replacement value. It does not appear from the record how many of the items were new or used and how many were included in the appraised value of the vessel. The Commission has determined that apart from antiques not subject to depreciation, furniture and appliances must be depreciated at a rate of 5 per cent per annum; and furnishings including drapes, lamps, clothing, must be depreciated at 10 per cent per year. Accordingly, in the absence of specific evidence to the contrary, the Commission finds that the value of the personal property herein that is most equitable to the claimant is \$5,000.00.

The Commission concludes that claimant NIKOLA SEVERDIJA sustained a loss, within the meaning of the Act, in the total amount of \$50,000.00.


The Commission has decided that in certifications 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); and in the instant claim it is so ordered.

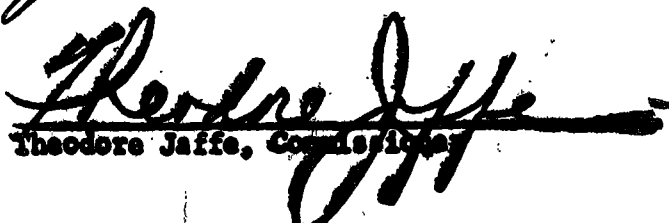
CERTIFICATION OF LOSS

The Commission certifies that NIKOLA SEVERDIJA suffered a loss, as a result of 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 Fifty Thousand Dollars (\$50,000.00) with interest thereon at 6% per annum from December 25, 1970 to the date of settlement.

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

SFP 2 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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. (FGSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, (1970).)