

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

IN THE MATTER OF THE CLAIM OF

MALVERN J. SHEFFIELD, JR., ADMINISTRATOR
OF THE ESTATE OF HENRY GRUEN, DECEASED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0500

Decision No. CU-
1966

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 \$10,893.20 was presented by Henry Gruen, and is based upon the asserted loss of real and personal property in Cuba. The record reflects that Henry Gruen, a national of the United States since his naturalization on December 11, 1925, died on October 23, 1967, and that Letters of Administration were issued to Malvern J. Sheffield, Jr. on December 22, 1967. MALVERN J. SHEFFIELD, JR., ADMINISTRATOR OF THE ESTATE OF HENRY GRUEN, DECEASED, is therefore substituted as claimant.

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.

Claimant asserts that Henry Gruen was the owner of two parcels of realty, one consisting of 5 acres in Santa Fe, the other consisting of 4 city lots in Santa Rosalia, both parcels of realty located on the Isle of Pines, Cuba; and that he lost them as a result of the actions of the Government of Cuba in the year 1961.

Evidence and information available to the Commission have established that the decedent was the registered owner of Property No. 11341, being the North half of the Southwest quarter of Lot 15 of Section 7 of Hacienda Santa Fe, Isle of Pines, Cuba; that said real property measured 5 acres; and that it was acquired by Henry Gruen in a sale from one Mamie Henry through Contract No. 210 of April 21, 1959. The Commission's sources have also established that the decedent was the registered owner of Property No. 11376, being united parcels 6 and 7 of Block C, Santa Rosalia, Isle of Pines, Cuba; that the said real property measures 2487.14 square meters; and that it was acquired by Henry Gruen in a sale from Captain R. L. Howard and Mrs. D. W. Howard through Contract No. 23 of March 15, 1959. The information available to the Commission indicates that the remaining two lots or parcels of Santa Rosalia real estate claimed were not registered in the name of the decedent.

On the basis of the record, the Commission finds that Henry Gruen was the owner of Property No. 11341, Santa Fe, Isle of Pines, Cuba, and Property No. 11376, Santa Rosalia, Isle of Pines, Cuba.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all real and personal property of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

The asserted value of the 5 acres of Santa Fe realty was stated as \$1,000.00 by decedent and the asserted value of the four lots of Santa Rosalia realty was stated as \$550.00. Since the record establishes decedent's ownership of approximately one-half of the claimed Santa Rosalia real estate, the asserted valuation would be approximately \$275.00 for the two lots included in Property No. 11341.

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.

The evidence of record also includes a map of the Santa Rosalia Estates prepared in 1904, showing the sub-division of the land in that area into 40 acre lots. Evidence available to the Commission includes affidavits of former brokers doing business in the sale of acreage in the Hacienda Santa Rosalia Estates and other areas of the Isle of Pines, which relate to the value of such units or lots of land. The values of such lots are estimated to vary in value from \$100.00 to \$500.00 per acre, depending upon size, location, natural attributes of such land and other factors. Evidence of record before the Commission in claims involving land in the area of the Hacienda Santa Rosalia Estates, Isle of Pines, thus establishes, in the absence of evidence of other value, that a valuation of \$275.00 for Property No. 11376, Santa Rosalia, would be fair and reasonable. With respect to

Property No. 11341, Santa Fe, the asserted valuation is \$200.00 an acre. Based on evidence of record and information available to the Commission concerning similarly situated realty and in absence of evidence of a higher value, the Commission finds that \$100.00 per acre for the 5 acres of Santa Fe realty is a fair and reasonable valuation. Accordingly, the Commission concludes that decedent suffered a loss in the total amount of \$775.00, when the realty, established by the record as being registered in his name, was taken by the Government of Cuba.

This claim is based in part on the asserted loss of \$113.20 in an account with a Cuban bank. A bank book issued in the name of decedent for Account No. 130 with Banco Financiero, Nueva Gerona, Isle of Pines, Cuba, has been submitted in support of this item. The bank book shows a balance of 113.20 pesos as of January 17, 1961. Based on the evidence of record, the Commission finds that Henry Gruen was the owner of a bank account, in the sum of 113.20 pesos, with the Banco Financiero, Nueva Gerona, Isle of Pines, Cuba.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts, and currency. Not all of these affected the account of claimant in Claim No. CU-0500. Law 568 of September 29, 1959, forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who had left the country. Law 891 of October 13, 1960, made banking a public function and took over all banks, with two exceptions. Law 930 of February 23, 1961 froze or continued the blocking of bank accounts by giving the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. Law 989 of December 9, 1961, confiscated all real and personal property, including bank accounts, of persons who had left the country. In the absence of evidence to the contrary, the Commission finds that decedent's above-described bank account, in the amount of 113.20 pesos, was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FGSC Semiann. Rep. 55 [July-Dec. 1966]).

Further, the Commission finds that on December 6, 1961, 113.20 pesos had a value of \$113.20 and that decedent suffered a loss in that amount.

In addition to the above-determined losses and the 2 lots in Santa Rosalia estates (which the record does not establish as being owned by decedent), this claim is asserted on the basis of decedent's loss of personal property valued at \$9,230.00, itemized as follows:

Stamp collection	\$4,700.00
Jewelry	3,500.00
Household and other personal property	1,030.00

The only documents of record in support of these items are the affidavits of decedent and one other person.

By Commission letter of July 11, 1966, Henry Gruen was advised as to the type of evidence proper for submission to establish this claim under the Act. Subsequent to that date, additional suggestions were made to Henry Gruen by the Commission. The only documentary evidence submitted in support of these portions of the claim are the above-described affidavits. Since Mr. Gruen's death, the Commission has been advised that no additional evidence is available for submission.

Accordingly, as to the two lots of Santa Rosalia real estate not included in Property No. 11376 and the personal property described above, the Commission finds that claimant has not met the burden of proof in that he has failed to establish decedent's ownership of rights and interests in such property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, these portions of the claim are denied.

The Commission has decided that in certification of losses 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.)

Accordingly, the Commission concludes that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from

December 6, 1961, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that MALVERN J. SHEFFIELD, JR., ADMINISTRATOR OF THE ESTATE OF HENRY GRUEN, DECEASED, succeeded to and 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 Eight Hundred Eighty-Eight Dollars and Twenty Cents (\$888.20) with interest thereon at 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

JUN 19 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

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. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)