

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

IN THE MATTER OF THE CLAIM OF

JOSEPH SOBIE

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

Claim No. CU-0787

Decision No. CU - 4790

Counsel for claimant:

Oscar C. Edrington, Esquire

Appeal and objections from a Proposed Decision entered on April 29, 1970.
Oral hearing requested.

Oral hearing held on June 19, 1970.

FINAL DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JOSEPH SOBIE for \$132,800.00 based upon the asserted ownership and loss of land, personal property and a 50% interest in a business enterprise in Cuba. Claimant has been a national of the United States since his naturalization in 1944.

The Commission issued its Proposed Decision in this matter on April 29, 1970, holding that the claimant suffered losses of property in Cuba which were within the purview of Title V of the Act, including two parcels of land in Havana, a 1958 Plymouth automobile and household furnishings; that at the time this property was taken by the Government of Cuba on December 6, 1961, it had a value of \$8,890.00. A portion of the claim, asserted for loss of a 50% interest in an electrical supply business, Pico y Cia., was denied for the reason that claimant failed to submit specific evidence to establish the net worth of the firm on the asserted date of loss.

Claimant objected, through counsel, to the portion of the Proposed Decision concerning the denial of his interest in the electrical firm, requested an oral hearing, and submitted additional evidence pertaining to the value of the business enterprise, subject of the claim. An oral hearing was held by the Commission on June 19, 1970, at which time claimant gave testimony concerning the value of the business enterprise in question. Additionally, counsel submitted a statement from Dun & Bradstreet concerning the value of the firm.

Upon consideration of the entire record, including testimony, argument and evidence submitted at the oral hearing, the Commission finds that claimant also owned a 50% interest in an electrical firm known as Pico y Cia., whose trade name was changed on June 9, 1961, to "Suministros Electra, S.A."; and that this business enterprise was nationalized or otherwise taken by the Government of Cuba on October 26, 1961, pursuant to Resolution 912.

The Commission also finds that the total loss in Cuba, for the properties subject of this claim including the two lots, auto, personal property and 50% interest in the aforesaid business in Cuba, was in the amount of \$132,800.00; that claimant owned a one-half interest therein, the other one-half being owned by claimant's wife, a nonnational of the United States at the time of loss. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$66,400.00 within the meaning of Title V of the Act.

The Certification of Loss, as restated below, will be entered and the Proposed Decision, as amended herein, is affirmed in all other respects.

CU-0787

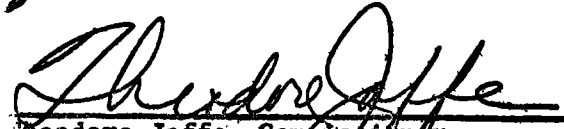
CERTIFICATION OF LOSS

The Commission certifies that JOSEPH SOBIE 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 Sixty-six Thousand Four Hundred Dollars (\$66,400.00) with interest at 6% per annum on \$61,955.00 from October 26, 1961, and on \$4,445.00 from December 6, 1961, to the date of settlement.

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

JUN 30 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

JOSEPH SOBIE

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

Claim No. CU-0787

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4790

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JOSEPH SOBIE for \$132,800.00 based upon the asserted ownership and loss of land, personal property and a stock interest in Cuba. Claimant has been a national of the United States since his naturalization in 1944.

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 describes his losses as follows:

1. Two parcels of land, Reparto Alamar, Havana	\$ 4,800.00
2. Household furnishings, jewelry, clothing	5,000.00
3. 1958 Plymouth auto	3,000.00
4. 1,200 shares of "Pico y Cia. Electra Supply"	<u>120,000.00</u>
	\$132,800.00

Real Property

Based upon the entire record, including an affidavit of the seller, the Commission finds that claimant was the owner of two parcels of land at Reparto Alamar in Havana.

On December 6, 1961, the Cuban Government published Law 989 which provided for confiscation of all personal and real property, and other interests of persons who 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 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 record includes, in support of the claimed values a description of the lots as 981 square meters each, and evidence that claimant purchased these in 1958 for a total of \$4,800.00.

Based on the foregoing record, the Commission finds that said real property had a value of \$4,800.00 on the date of loss.

Personal Property

The record includes claimant's listing of personal property left in Cuba at the time of his departure sometime in 1961 as well as affidavits of persons familiar with his property.

The Commission finds that claimant owned certain personal property which was taken by the Government of Cuba on December 6, 1961, pursuant to Law 989, supra.

On the basis of the record and considering evidence available to the Commission as to the value of similar properties, the Commission finds that at the time of loss the personalty, including the automobile, had a value of \$4,090.00.

Stock Interest

Claim is made for \$120,000.00 which claimant states is the sum invested in "Pico y Cia. Electra Supply". The enterprise was engaged in wholesale business of electrical equipment and supplies. He has submitted the statement of the Secretary of the corporation setting out that Pico & Cia. was established in 1954; that claimant joined it in 1959; that it was succeeded by "Suministros Electra, S.A." on June 9, 1961.

Further, it appears that claimant in 1959 invested 150,000 pesos, which was reduced by 30,000 pesos; and that claimant received 1,200 shares of Electra of a par value of 100 pesos each. He further asserts that this represents a 50 per cent interest in the company.

The record contains copy of Resolution 912 of the Ministry of Internal Commerce which recites that by Resolution 4104, of October 26, 1961, an interventor was appointed to the business of Leopold Jose Pico and JOSEPH SOBIE, stockholders of Suministros, S.A.

Claimant estimates the value of the assets of Electra at the time of loss as follows:

CU-0787

Merchandise Inventory	\$200,000.00
Furniture, fixtures and Leasehold Improvement	20,000.00
Accounts Receivable from Customers	<u>50,000.00</u>
	\$270,000.00

He further states there were no liabilities at that time.

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).)

The Commission has made suggestions to claimant as to the type of evidence appropriate to submit in support of the asserted value, particularly by letters of August 23, 1966, July 18, 1967, March 15, 1968, April 26, 1968, June 13, 1968 and December 6, 1968. Claimant, however, relies on the record as to his initial investment. Title V of the Act requires a finding of value as of the date of loss.

In the absence of specific evidence of value on the date of loss, the Commission is constrained to hold that claimant has not established the extent of his loss with respect to this item of claim. Accordingly, this part of the claim is denied. (See Claim of Lucia W. Mendoza, Claim No. CU-3219.)

The Commission concludes that claimant suffered a loss in the amount of \$8,890.00 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on December 6, 1961.

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), and in the instant case it is so ordered.

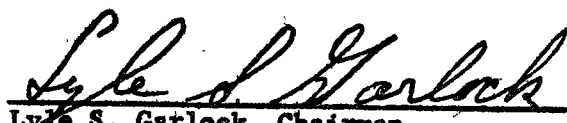
CU-0787

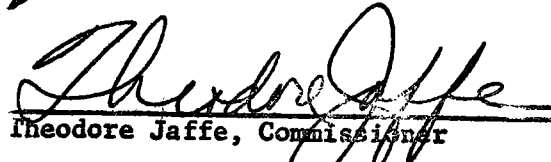
CERTIFICATION OF LOSS

The Commission certifies that JOSEPH SOBIE 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 Thousand Eight Hundred Ninety Dollars (\$8,890.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

APR 29 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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).)

CU-0787