

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

IN THE MATTER OF THE CLAIM OF

HUGO HARTENSTEIN  
VIRGINIA R. HARTENSTEIN

Claim No. CU-0856

Decision No. CU- 4524

Under the International Claims Settlement  
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by HUGO HARTENSTEIN and VIRGINIA R. HARTENSTEIN, in the amended amount of \$95,465.00 and is based upon the asserted loss of improved and unimproved real property, personal property, and bonds. Claimants have been nationals 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.

Claimants state that they lost an interest in improved real property consisting of a house and garage valued at \$42,250.00; 5400 square meters of land valued at \$26,460.00; and personal property consisting of household furnishings, antiques, paintings, silverware and crystal at \$24,755.00.

The record contains information furnished to the Commission from sources in Cuba; and claimants' affidavit, several other affidavits; and an itemized list of the personal property.

Based upon the entire record, the Commission finds that the claimants each owned a one-half interest in the following:

- (1) House at 3712 Calle 102 (formerly Medrano Street), Marianao;
- (2) Land measuring approximately 5400 square meters at and adjoining 3712 Calle 102 (formerly Medrano Street), Marianao;
- (3) Improvements; and
- (4) Personal property, consisting of household furnishings, antiques, paintings, silverware and crystal.

The Commission further finds that these properties were confiscated by the Government of Cuba on December 28, 1965 pursuant to Law 989 of December 6, 1961, within the purview of Title V of the Act.

In arriving at the value of the real property, consideration was given to all of the evidence of record, including the report from abroad, claimants' affidavits, several other affidavits; and an itemized list of personal effects.

The Commission finds that at the time of loss the property had the following values:

(1) House, garage and other improvements at 3712 Calle 102 (formerly Medrano Street), Marianao	\$42,250.00
(2) Land at and adjoining 3712 Calle 102, Marianao	26,460.00
(3) Personal property, after depreciation with the exception of antiques, paintings, silverware and crystal which were not depreciated. (Personal property in a private depository was not taken by the Government of Cuba and is not included herein)	<u>13,759.25</u>
Total	\$82,469.25

BONDS

On the basis of evidence of record, the Commission finds that claimants are and since prior to August 6, 1960 have been the owners of \$2000 Mortgage bonds issued by the Cuban Electric Company, due 1980, which were secured by the property in Cuba of the Cuban Electric Company, a corporation organized under the laws of the State of Florida which qualifies as a national of the United States. The properties of the Cuban Electric Company were listed as nationalized by Resolution No. 1 (pursuant to Law 851 of July 6, 1960) of the Government of Cuba effective August 6, 1960. Claimants' bonds therefore represented a debt which was a charge upon nationalized property as defined in Section 502(3) of the Act. The Commission concludes that as a result of the nationalization of the properties of the Cuban Electric Company in Cuba, claimants suffered a loss in connection with these bonds within the meaning of Title V of the Act, on August 6, 1960. (See Claim of Ebasco Industries Inc., Claim No. CU-3548.)

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.

CERTIFICATIONS OF LOSS

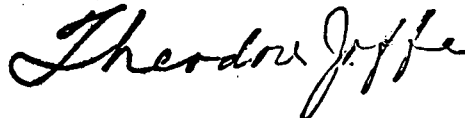
The Commission certifies that HUGO HARTENSTEIN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-Two Thousand Two Hundred Thirty-Four Dollars and Sixty-Three Cents (\$42,234.63) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

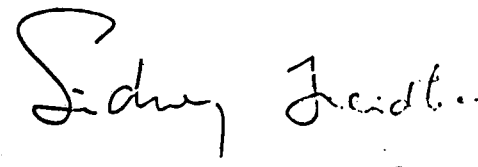
The Commission certifies that VIRGINIA R. HARTENSTEIN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-Two Thousand Two Hundred Thirty-Four Dollars and Sixty-Two Cents (\$42,234.62) with interest 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

MAR 4 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-0856