

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

IN THE MATTER OF THE CLAIM OF

JOSEPH TRESSER

Claim No. CU-0885

Decision No. CU

2926

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This amended claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$6,898.60 was presented by JOSEPH TRESSER and is based upon the asserted loss of personal property and a bank account situated in Cuba. Claimant has been a national of the United States since his 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.

Claimant asserts that he owned certain personal property to which he assigns a value of \$6,898.60, specifically tangible personalty in the amount of \$6,255.00 and a bank account in the asserted amount of 643.60 pesos.

The record contains a copy of claimant's 1962 income tax return, a statement by claimant and two affidavits by persons having personal knowledge of the facts all of which reflect that claimant owned and lost personal property which had a value of \$6,255.00.

Upon due consideration of the evidence of record, and in the absence of evidence to the contrary, the Commission holds that claimant owned subject personal property in Cuba, and that the property had a value of \$6,255.00.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p.23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. The Commission finds, in the absence of additional or contrary evidence, that claimant's personalty 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 Commission has found in previous claims that the Cuban Peso was equal in value to the United States Dollar on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].) The Commission therefore concludes that claimant's personalty had a value of \$6,255.00 on the date of loss.

Accordingly, it is concluded that claimant suffered a loss on December 6, 1961 as a result of the actions of the Government of Cuba within the meaning of Title V of the Act, in the amount of \$6,255.00.

Claimant further contends that he has lost a bank account in Cuba having a balance of 643.60 pesos. The record establishes that the account in the Banco Continental Cubano had a balance of 633.59 pesos. Nothing is of record to establish that an amount of 10.01 pesos in interest was due.

The Commission further finds that the above described bank account, totalling 633.59 pesos, was taken by the Government of Cuba on December 6, 1961. However, this account was in the name of JOSEPH TRESSER and Maria Bober Tresser, who did not become a national of the United States until June 11, 1963. Accordingly, her interest in the bank account does not come within the scope of Title V.

Thus, the Commission finds that on December 6, 1961, claimant suffered a loss in the amount of \$316.80 within the meaning of Title V of the Act, as the result of the taking of this bank account by the Government of Cuba as of December 6, 1961.

The Commission has decided that in certifications 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 the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$6,571.80 from December 6, 1961 to the date on which the provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that JOSEPH TRESSER 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 Six Thousand Five Hundred Seventy-One Dollars and Eighty Cents (\$6,571.80) 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

8961 62 JH

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
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).)