

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

IN THE MATTER OF THE CLAIM OF

ALFRED F. SCHNEID
INGEBORG S. REINHARD

Claim No. CU-1151

Decision No. CU2927

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Turner and Hodson
by Vernon W. Turner, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$43,500.00 was presented on behalf of the Estate of Kurt Schneid, deceased, and is based upon the asserted loss of improved realty and a bank account situated in Cuba. As the two children of Kurt Schneid, Deceased have petitioned to be substituted as claimants in this matter, and the petitions having been duly considered, they are so substituted. Claimant have been nationals of the United States since their respective naturalizations on November 29, 1937 and February 24, 1938.

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 assert, through counsel, that they each own a 1/3 interest in improved land described as the East half of Lot 10, Section 12, Lot 11, Lots 7, 8, 9 and 10, Section 6 and Lots 5 and 12, Section 11, Hacienda Santa Rosalia, Isle of Pines, Cuba. Claimants assign a value of \$40,000.00 to the property.

The record contains a report from an independent source which reflects that the real property is recorded 1/3 each in the names of Wilma Schneid, widow and ALFRED F. SCHNEID and INGEBORG S. REINHARD.

Upon due consideration of the evidence of record, and in the absence of evidence to the contrary, the Commission holds that claimants each own a 1/3 interest in subject realty.

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. Consequently, the Commission finds, in the absence of additional or contrary evidence, that claimants' realty 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 record includes a report of appraisal of the property in the amount of \$40,000.00. On the basis of this and other evidence of record the Commission finds that the realty in question had a value of \$40,000.00 on the date of loss.

Accordingly, it is concluded that claimants' 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 \$13,333.33 each.

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 the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961 to the date on which provision is made for the settlement thereof.

A portion of this claim is asserted for the loss of a bank account.

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).)

Claimants state, through counsel, that they have nothing which will prove ownership or taking. Therefore the Commission finds in this regard that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this portion of the claim and it is hereby denied.

Moreover, inasmuch as Wilma Schneid has neither petitioned to join in this claim, nor has evidence of her United States nationality been submitted, her loss cannot be certified.

CERTIFICATION OF LOSS

The Commission certifies that ALFRED F. SCHNEID 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 Thirteen Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$13,333.33) with interest thereon at the rate of 6% per annum from December 6, 1961 to the date of settlement; and

the Commission certifies that INGEBORG S. REINHARD 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 Thirteen Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$13,333.33) with interest thereon at the rate of 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

AUG 29 1968

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).)

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