

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

IN THE MATTER OF THE CLAIM OF

CALVIN R. HEMPHILL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1479

Decision No. CU

3102

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 CALVIN R. HEMPHILL, and is based upon the asserted loss sustained in connection with an interest in a private school. Claimant has been a citizen 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.

Claimant contends that he lost a one-half interest in the Hemphill School in Havana, Cuba. Claimant has submitted among other things, his own sworn affidavit and a letter from a firm of Certified Public Accountants dated June 26, 1968 enclosing a balance sheet for the Cuban branch of Hemphill Pan-American, Inc. dated May 31, 1961.

On the basis of the entire record, the Commission finds that claimant and his wife, a non-national of the United States, each owned a one-half interest in the Hemphill School, Havana, Cuba.

On June 6, 1961, the Government of Cuba published an unnumbered Law in its Official Gazette which nationalized as of that date all centers of instruction being operated by private entities, as well as all properties, rights and interests therein. Accordingly, the Commission finds that the Hemphill School was nationalized by the Government of Cuba on June 6, 1961.

Among the documents submitted is a balance sheet prepared by a firm of Certified Public Accountants as of May 31, 1961, for the Cuban branch of Hemphill Pan-American, Inc., which statement the Commission finds correct and to be proper evidence. It is as follows:

HEMPHILL PAN-AMERICAN, INC.
CUBAN OFFICE
BALANCE SHEET
MAY 31, 1961

ASSETS

Current Assets

Cash on hand	\$ 100.00
Cash in banks	25,389.53
Advance receivable from manager	1,125.00
Rent deposit	290.00
Inventory of lessons and supplies	<u>3,252.94</u>

Total current assets

\$30,157.47

Other Assets

Furniture and equipment	\$ 4,747.78	
Less: Accumulated depreciation	<u>435.21</u>	<u>\$ 4,312.57</u>
Total Assets		<u><u>\$34,470.04</u></u>

LIABILITIES AND CAPITAL

Liabilities

None

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Capital

Investment in Cuban Office	<u>\$34,470.04</u>
Total liabilities and capital	<u><u>\$34,470.04</u></u>

The total assets represent the owners' equity or the net worth of the enterprise. The Commission therefore finds that the dollar loss sustained in connection with ownership of the said enterprise amounts to \$34,470.04. The Commission further finds that claimant's one-half interest at the time of loss amounts to \$17,235.02.

Accordingly, in the instant claim, the Commission finds that claimant, CALVIN R. HEMPHILL, suffered a loss in the amount of \$17,235.02 within the meaning of Title V of the Act, as a result of the nationalization of the Hemphill School on June 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 it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that CALVIN R. HEMPHILL 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 Seventeen Thousand Two Hundred Thirty-Five Dollars and Two Cents (\$17,235.02) with interest at 6% per annum from June 6, 1961 to the date of settlement.

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

SEP 25 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, 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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