

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

IN THE MATTER OF THE CLAIM OF

EMILY SEIFERT
BETTY KERSEY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1827

Decision No. CU
2119

Counsel for claimants:

Harold J. Cohen, Esq.

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 EMILY SEIFERT and BETTY KERSEY in the amount of \$2,000.00 based upon the asserted ownership and loss of an interest in land. Claimants have been nationals of the United States since their respective births in the United States.

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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Claimants contend that they have lost an investment in real property in Cuba valued at \$2,000.00. Evidence of record reflects that Harry Seifert, deceased, claimants' husband and father, respectively, owned property in Cuba consisting of ten acres of unimproved land located in Lot No. 15 of Section 3 of Reparto de la Hacienda Los Almacigos, Barrio de Santa Fe, Isle of Pines.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXLLL, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stock, bonds and securities of persons who had left the country. As the record shows, in December 1961, Harry Seifert, deceased, resided in the United States. The Commission finds, in the absence of evidence to the contrary, that the decedent's investment in the subject real property was taken by the Government of Cuba on December 5, 1960, pursuant to the provisions of Law 989 and that Harry Seifert suffered a loss on that date resulting from the actions of the Government of Cuba, and that claimants herein as the sole heirs of the decedent each succeeded to and suffered a one-half interest in the loss upon the death of Harry Seifert in 1966. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109.)

The record contains a copy of the document of sale, dated April 14, 1956, evidencing the fact that Harry Seifert purchased the property that is the subject of this claim for a total consideration of \$1,000.00. Claimants assert the value of the property to be \$2,000.00, stating that the \$1,000.00 sales price was paid because the property was purchased for cash. Additionally, claimants assert that the property appreciated in value since 1956 and that on the date of taking by the Government of

Cuba had a value of \$2,000.00. No evidence however in support of these assertions was submitted.

Accordingly, the Commission finds that, in the absence of evidence to the contrary, the subject property had a value of \$1,000.00 at the time of loss in 1961 and that the claimants herein succeeded to and suffered a loss in the amount of \$500.00 each within the meaning of Title V of the Act.

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, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that EMILY SEIFERT 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 Five Hundred Dollars (\$500.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

the Commission certifies that BETTY KERSEY 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 Five Hundred Dollars (\$500.00) 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

JUL 24 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).)