

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

IN THE MATTER OF THE CLAIM OF

SEBASTIAN J. RODRIGUEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2128

Decision No. CU

2778

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 \$9,500.00 was presented by SEBASTIAN J. RODRIGUEZ and is based upon the asserted loss of an apartment with furnishings situated in Cuba. Claimant has been a national of the United States at all times pertinent hereto.

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 a cooperative apartment number 7 on the third floor, Alturas del Vedado, Havana together with the furnishings therein. Claimant assigns a value of \$9,500.00 to the property.

The record contains two affidavits of independent persons with personal knowledge which are corroborated by evidence available to the Commission which state, inter alia, that claimant owned said apartment and furnishings and that the apartment had a value of \$6,500 and the furnishings had a value of \$3,575.

Upon due consideration of the evidence of record, and in the absence of evidence to the contrary, the Commission holds that claimant owned a cooperative apartment number 7 on the third floor, Alturas del Vedado, Havana together with the furnishings therein.

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 claimant's 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 Commission has described all the aforementioned evidence of record and finds that \$10,075 is the fair value of the property.

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 \$10,075.

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 claimant shall be increased by interest thereon at the rate of 6% per annum on \$10,075 from December 6, 1961 to the date on which provision is made for the settlement thereof.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that SEBASTIAN J. RODRIGUEZ 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 Ten Thousand Seventy-Five Dollars (\$10,075.00) 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 14 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).)