

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

IN THE MATTER OF THE CLAIM OF

JOHN C. SILLIMAN  
ADA T. SILLIMAN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2232

Decision No. CU 4487

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 JOHN C. SILLIMAN for \$32,514.09 based upon the asserted ownership and loss of his business and certain household furnishings in Havana, Cuba. Claimant has been a national of the United States since prior to March 28, 1960.

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, JOHN C. SILLIMAN, describes his loss as follows:

"Assets" of his business	\$26,124.09
Household furnishings	<u>5,390.00</u>
	\$31,514.09

The record discloses that ADA T. SILLIMAN, the wife of JOHN C. SILLIMAN since prior to 1960, has been a national of the United States since birth. Pursuant to the community property law of Cuba she had an interest in property acquired by her husband in Cuba subsequent to their marriage. Accordingly, ADA T. SILLIMAN is joined as claimant in this matter.

Based upon the entire record, including a copy of the balance sheet of claimant's firm, John C. Silliman, as of December 31, 1959, a copy of a Dun & Bradstreet report dated October 7, 1959, a copy of a letter from claimant's principal supplier dated March 19, 1965, reflecting claimant's purchases from 1955 to 1961, and a provisional binder by a Cuban insurance company dated November 21, 1960, covering claimants' household furnishings, the Commission finds that claimants owned the household furnishings in question and that claimant, JOHN C. SILLIMAN, was engaged in Cuba in general acoustic installation.

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 left the country.

Claimant left Cuba shortly after November 21, 1960. The Commission finds, in the absence of evidence to the contrary, that his property and interests in Cuba were 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 Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights,

or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The record includes, in support of the claimed values, the aforementioned evidence relating to the firm and household furniture in question. The balance sheet as of December 31, 1959 reflects the following, the peso being on a par with the United States dollar:

A S S E T S

CURRENT:

Petty cash		\$	100.00	
The Trust Co. of Cuba			1,150.93	
Accounts Receivable	\$18,394.69			
Less: Reserve for bad accounts	<u>360.68</u>		18,034.01	
To be invoiced against contracts			5,035.56	
Stock of materials			13,893.87	
Advance to employees			756.59	
Deposits in guarantee			<u>237.00</u>	
Total current assets				\$39,207.96

FIXED: (Less reserves)

Equipment for working		\$	5,756.24	
Rolling stock			5,101.80	
Furniture and fixtures			<u>2,771.39</u>	
				<u>13,629.43</u>

TOTAL

\$52,837.39

L I A B I L I T I E S

CURRENT:

Accounts payable		\$12,470.05	
Notes payable		11,770.29	
Accumulated expenses payable		21.61	
Obligations payable		1,500.00	
Sundry bills		<u>951.35</u>	26,713.30

C A P I T A L

John C. Silliman (Capital)		\$21,371.53	
Profit and Loss	\$ 9,849.30		
John C. Silliman, Personal	<u>5,096.74</u>	<u>4,752.56</u>	<u>26,124.09</u>

TOTAL LIABILITIES AND CAPITAL

\$52,837.39

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to claimants as regards the loss of the business is that shown in the balance sheet as of December 31, 1959, which indicates the value of the assets of claimant's firm, John C. Silliman, as \$52,837.39. The Commission has consistently not reduced the value of business firms in Cuba by any liabilities in its determinations under Title V of the Act, except for items subject to set-off as debts owing to the Republic of Cuba. The Commission finds no valid reason for reducing the value of the assets of claimant's business by his liabilities in Cuba.

Attached to the provisional binder by The Cuban Insurance Company, Cuban Association of Fire Insurance Companies, is a detailed description of the items of household furnishings insured, including the value assigned to the furnishings in each room to separate items of appliances, kitchenware and miscellaneous articles. The Commission finds that the asserted value of \$5,390.00 for the household furnishings is fair and reasonable.

Accordingly, the Commission concludes that claimants suffered a loss in the total amount of \$58,227.39 within the meaning of Title V of the Act, as the result of the taking of their property by the Government of Cuba on December 6, 1961.

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

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 in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that JOHN C. SILLIMAN and ADA T. SILLIMAN jointly 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 Fifty-eight Thousand Two Hundred Twenty-seven Dollars and Thirty-nine Cents (\$58,227.39) with interest 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

12 FEB 1970

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Jacobson*

~~Sidney Jacobson, 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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