

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

IN THE MATTER OF THE CLAIM OF

ROBERT SOLMITZ AND
ALICE MEYER,
EXECUTORS OF THE ESTATE OF
LEO MEYER, DECEASED

Claim No. CU - 2475

Decision No. CU - 4442

**Under the International Claims Settlement
Act of 1949, as amended**

Counsel for claimants:

Loeb and Loeb
By: John S. Warren, 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 on May 1, 1967 by ROBERT SOLMITZ AND ALICE MEYER, EXECUTORS OF THE ESTATE OF LEO MEYER, DECEASED, for \$19,540.93 based upon the asserted ownership and loss of a bank account in Cuba and a shareholder's interest in a Cuban corporation. The decedent, LEO MEYER, had been a national of the United States since his naturalization in 1946. He died testate on April 12, 1966. The beneficiaries of his estate were United States nationals at the requisite times.

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.

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).)

Claim is presented for the following losses:

A bank account in the Havana branch of the National City Bank of New York	\$ 2,022.42
Investment represented by 296 shares in Productos Agricolas, S.A.	<u>17,518.51</u>
	\$19,540.93

Based upon the entire record, including the original copy of decedent's bank statement as of January 31, 1961 from the bank in question, the Commission finds that decedent had a balance of 2022.42 Cuban pesos on deposit with this bank.

On December 6, 1961 the Cuban Government published its Law 989 which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. Accordingly, in the absence of evidence to the contrary, the Commission finds that decedent's above described bank account, totalling 2,022.42 pesos (which were on a par with United States dollars), was taken by the Government of Cuba on December 6, 1961 (see Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]) and concludes that decedent suffered a loss in the amount of \$2,022.42 within the meaning of Title V of the Act.

With regard to the portion of this claim based on the loss of a shareholder's interest in a Cuban corporation, claimant was advised, through counsel, by Commission letter of June 5, 1967 regarding the type of evidence proper to establish this portion of the claim. On August 17, 1967 counsel was invited to submit the suggested evidence within 45 days

from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. On November 24, 1967 counsel was again advised regarding this portion of the claim. On March 8, 1968 counsel was asked to inform the Commission within 15 days of the availability of other evidence. On May 27, 1968 counsel's attention was again directed to this portion of the claim and he was given 30 days to submit the suggested evidence. On June 25, 1968 and July 12, 1968 counsel was again reminded and given 20 days from the respective dates to submit the evidence, and on July 10, 1968 ROBERT SOLMITZ, one of the Executors of the Estate, was sent copies of Commission letters of June 25, 1968, May 27, 1968, and November 24, 1967. On October 10, 1968 counsel was informed of the reduction in the Commission's staff and reminded of the elements to be established. A copy of this letter was sent to ROBERT SOLMITZ. None of the suggested evidence to establish the portion of the claim based on an asserted stock interest has been submitted.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish this portion of the claim and, accordingly, it is hereby denied.

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 ROBERT SOLMITZ AND ALICE MEYER, EXECUTORS OF THE ESTATE OF LEO MEYER, DECEASED, succeeded to and 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 Two Thousand Twenty-Two Dollars and Forty-Two Cents (\$2,022.42) 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

29 JAN 1970

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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