

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

IN THE MATTER OF THE CLAIM OF

NATALIE ANNE DE BERLY

Claim No. CU -2904

Decision No. CU-3402

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered December 18, 1968. No oral hearing requested.

Hearing on the record held on April 9, 1969

FINAL DECISION

In its Proposed Decision, the Commission found that claimant owned a one-half interest in the Lafayette School at 21211-39th Avenue, Marianao, and a one-half interest in personal effects, including furniture, antiques, art objects and other furnishings at 2123-21st A Avenue, Marianao, Cuba. The Commission further found that the school was taken by the Government of Cuba on June 6, 1961 and the personal effects on February 15, 1961. The Commission found that claimant's one-half interest in the school had a value of \$75,860.33 and claimant's one-half interest in the personal effects a value of \$29,844.20 at the time of loss.

Claimant objected to the values placed upon the school and personal effects by the Commission at the time of loss, contending in brief that the Commission failed to give full consideration to all of the evidence of record. The Commission has considered the entire record including the contentions made by the claimant and finds the following:

Among documentation submitted is the aforementioned itemized list of personal effects and a sworn statement for Cuban income tax purposes of the Lafayette School which includes the total assets, liabilities and capital of said school on July 1, 1959 and July 31, 1960. Supplementing the balance sheet which has limited application in this case was other evidence showing the actual value at the time of the confiscation of the real and personal school properties. From the evidence before it the Commission finds that the net value of the school assets taken was as follows:

Cash and in Banks	\$ 2,934.92
Accounts Receivable	4,122.89
Inventory	13,770.10
Land	52,782.10
Buildings and other improvements	387,848.18
Furniture, Implements, Equipment	
Office Equipment	206,451.00
Rolling Stock	22,424.60
Deposits in Escrow	2,389.00
Deferred Charges	<u>4,003.88</u>
Total Assets	<u>\$696,726.67</u>

Less the following liabilities:

Current:

Taxes, Contributions and Social Security to be paid	\$ 200.00
Other Accounts and Short Term Liabilities	62,457.57

Long Term:

Mortgages	258,622.43
Other Long Term Credits	<u>24,591.42</u>
Total Liabilities	<u>\$345,871.42</u>

Net Worth of Business \$350,855.25

The Commission finds that the dollar loss sustained in connection with ownership of the said enterprise amounts to \$350,855.25. The Commission further finds that claimant's one-half interest at the time of loss is valued at \$175,427.63.

In arriving at the value of claimant's interest in the personal effects, including furniture, antiques, art objects and other furnishings, the Commission gave consideration to claimant's itemization, including dates of purchase and amounts paid for each item and depreciated all of the items except the antiques and art objects pursuant to depreciation tables available to the Commission. The Commission finds that the value of the personal effects at the time of loss amounted to \$66,493.40 and that claimant's one-half interest amounted to \$33,246.70.

Accordingly, in the instant claim, the Commission finds that claimant, NATALIE ANNE DE BERLY, suffered a loss in the amount of \$208,674.33 within the meaning of Title V of the Act, as a result of the nationalization of Lafayette School and the taking of her personal effects by the Government of Cuba on June 6, 1961 and February 15, 1961, respectively.

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 respective dates of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Thus, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$175,427.63 from June 6, 1961, and on \$33,246.70 from February 15, 1961 to the date on which provisions are made for the settlement thereof.

Accordingly, the certification of loss as restated below will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that NATALIE ANNE DE BERLY 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 Hundred Eight Thousand Six Hundred Seventy-four Dollars and Thirty-three Cents (\$208,674.33) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

APR 23 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

NATALIE ANNE DE BERLY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2904

Decision No. CU **3402**

PROPOSED DECISION

This claim in the amount of \$443,685.93, against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by NATALIE ANNE DE BERLY, and is based upon the asserted loss sustained in connection with her ownership interests in a school and personal effects. Claimant has been a national 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 she lost a one-half interest in the Lafayette School at 21211-39th Avenue, Marianao, and a one-half interest in personal effects, such as furniture, antiques, art objects and other furnishings at 2123-21st A Avenue, Marianao, Cuba.

Claimant has submitted, among other things, a sworn statement for the income tax payment of the Lafayette School covering the period July 1, 1959 to July 31, 1960; affidavit of an officer of the Bank of China executed March 8, 1968; affidavit of a former manager of the Havana office of a brokerage house dated February 29, 1968; an undated affidavit of the former president of "Constructora Metropolitana, S.A.", a Havana, Cuba, construction corporation, concerning construction of the school for claimant and her husband; a picture of the Lafayette School assertedly taken from the 1960 Lafayette School Yearbook; as well as an itemization of claimant's personal effects.

On the basis of the entire record, the Commission finds that claimant and her husband, Gerard de Berly, each owned a one-half interest in the Lafayette School at 21211-39th Avenue, Marianao, and a one-half interest in certain personal effects, including furniture, antiques, art objects, and other furnishings of a 12-room residence at 2123-21st A Avenue, Marianao, all as fully listed by the claimant. Claimant's husband was not a United States national on the dates of loss and is not a claimant herein.

On June 6, 1961, the Government of Cuba published an unnumbered law, in its Official Gazette which nationalized, as of the above date, all centers of instruction being operated by private or legal entities, as well as all the properties, rights, and interests that formed the patrimony of said centers. Accordingly, the Commission finds that Lafayette School was nationalized by the Government of Cuba on June 6, 1961. (See Claim of Calvin R. Hemphill, Claim No. CU-1479.)

Claimant avers that her personal effects were taken by representatives of the Government of Cuba in February, 1961, from the places where these effects were situated. The Commission finds on the basis of the record, and in the absence of evidence to the contrary, that claimant's personal effects were taken by the Government of Cuba on February 15, 1961.

Among documentation submitted is the aforementioned itemized list of personal effects and a sworn statement for income tax payment of the Lafayette School which includes the total assets, liabilities and capital of said school on July 1, 1959 and July 31, 1960. The pertinent portion of the sworn statement for income tax purposes relates to the July 31, 1960 date and is hereinafter set forth:

MINISTRY OF FINANCES
General Direction of Internal Taxes
STATEMENT OF SITUATION

	At End of Period <u>July 31, 1960</u>
<u>ASSETS</u>	
<u>CURRENT ASSETS</u>	
Cash and Banks	\$ 2,934.92
Accounts Receivable	4,122.89
Inventory	13,770.10
<u>FIXED ASSETS</u>	
Land	52,782.10
Buildings and Constructions	387,848.18
Furniture, Implements, Equipment	
Office Equipment	118,472.65
Rolling Stock	22,424.60
<u>DEPOSITS IN ESCROW</u>	2,389.00
<u>DEFERRED CHARGES</u>	<u>4,003.88</u>
TOTAL ASSETS	\$ 608,753.32

MINISTRY OF FINANCES
General Direction of Internal Taxes
STATEMENT OF SITUATION

At End of
Period
July 31, 1960

LIABILITIES

CURRENT LIABILITIES

Accounts Payable to Suppliers	\$
Notes Payable to Suppliers	
Loans	
Taxes, Contributions and Social Security to be paid	200.00
Other Accounts and Short Term Liabilities	62,457.57

LONG TERM LIABILITIES

Mortgages	258,622.43
Other Long Term Credits	24,591.42

OTHER LIABILITIES AND RESERVES FOR

Depreciation Buildings	25,570.08
Depreciation Furniture, Stocks Equipment, Office Equipment	72,370.76
Depreciation Rolling Stock	11,098.61

CAPITAL OR PATRIMONY

Capital	142,026.73
Accumulated Profits or Losses	<u>9,693.92</u>

TOTAL LIABILITIES AND CAPITAL \$ 608,753.32

The Commission finds that the dollar loss sustained in connection with ownership of the said enterprise amounts to \$151,720.65 which includes Capital of \$142,026.73 and Accumulated Profits of \$9,693.92. The Commission further finds that claimant's one-half interest at the time of loss is valued at \$75,860.33.

In arriving at the value of claimant's interest in the personal effects, including furniture, antiques, art objects and other furnishings, the Commission gave consideration to claimant's itemization, including dates of purchase and amounts paid for each item and depreciated all of the items except the antiques and art objects pursuant to depreciation tables available to the Commission. The Commission finds that the value of the personal effects at the time of loss amounted to \$59,688.40 and that claimant's one-half interest amounted to \$29,844.20.

Accordingly, in the instant claim, the Commission finds that claimant, NATALIE ANNE DE BERLY, suffered a loss in the amount of \$105,704.53 within the meaning of Title V of the Act, as a result of the nationalization of Lafayette School and the taking of her personal effects by the Government of Cuba on June 6, 1961 and February 15, 1961, respectively.

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 respective dates of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$75,860.00 from June 6, 1961, and on \$29,844.20 from February 15, 1961 to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that NATALIE ANNE DE BERLY 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 One Hundred Five Thousand Seven Hundred Four Dollars and Fifty-three Cents (\$105,704.53) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

DEC 18 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jarfe

Theodore Jarfe, 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).)