

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

IN THE MATTER OF THE CLAIM OF

JEWEL SEBASTIANA LAPOINTE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3068

Decision No. CU - 3751

Counsel for claimant:

Robert C. Salisbury, Esq.
and
Rufus King, 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 JEWEL SEBASTIANA LAPOINTE, for \$69,220.29 based upon the asserted ownership and loss of realty and a bank account. Claimant has been a national of the United States since her birth 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, 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 she has lost a bank account in the Marianao branch of The Chase Manhattan Bank in the amount of \$1,670, and ten items of real property having an aggregate value of \$67,550.13.

The evidence of record includes a bank statement showing the balance of \$1,670.16 in claimant's favor as of June 30, 1960; as well as satisfactory evidence of her ownership of the realty, which is further described below including the values ascribed to the properties as a result of an estate appraisal dated May 27, 1958:

- | | | |
|------|--|--------------------|
| (1) | <u>13212 57th Avenue between 132nd Street and 134th Street, Marianao:</u>
836 square meters of land improved by a house formerly used as a family residence | \$29,050.00 |
| (2) | <u>10820 and 10822 49th Avenue, Marianao:</u>
six interior rooms and an adjoining house on 388.24 square meters | 8,098.29 |
| (3) | <u>On Arredondo Street, Marianao:</u>
211.63 square meters improved by a two-dwelling house | 4,060.00 |
| (4) | <u>11807 47th Avenue, Marianao:</u>
161.86 square meters improved by a one-story house of approximately 6 rooms | 3,826.87 |
| (5) | <u>11021 43d Avenue, Marianao:</u>
374.6787 square meters, unimproved | 7,815.45 |
| (6) | <u>11003 43d Avenue, Marianao:</u>
63.36 square meters improved by a house of approximately 4 rooms | 2,881.62 |
| (7) | <u>11009 43d Avenue, Marianao:</u>
(similar to item <u>6</u> above) | 2,881.62 |
| (8) | <u>11013 43d Avenue, Marianao:</u>
(similar to item <u>6</u> above) | 2,881.62 |
| (9) | <u>11015 43d Avenue, Marianao:</u>
(similar to item <u>6</u> above) | 2,881.62 |
| (10) | <u>11017 43d Avenue, Marianao:</u>
(similar to item <u>6</u> above) | 2,881.62 |
| | | <u>\$67,258.71</u> |

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed. The law covered residential, commercial, industrial and business office properties. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

On December 6, 1961, the Cuban Government published its Law 989 in its Official Gazette, which law confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who were not in the country. In the instant case the record shows that the claimant had left Cuba in August, 1958, prior to the adoption of that law.

The Commission finds that items described above as (2), (3), (4), (6), and (7) through (10) were taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law; and that the realty described as items (1) and (5), as well as the bank account, were taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

Based upon the entire record, including the original appraisal letter from the real estate broker, the Commission finds that the asserted values of the real property items are fair and reasonable and concludes that claimant suffered a loss within the meaning of Title V of the Act in the amount of \$30,393.26 as a result of the taking of certain property by the Government of Cuba on October 14, 1960; and that she suffered an additional loss of \$38,535.61 as a result of the taking of the remaining property, including a bank account, by the Government of Cuba, on December 6, 1961.

The valuation asserted by the claimant included the amount of \$291.42 which had been allotted to her in cash to equalize her share of the property inherited; however, no certification of loss is made for the \$291.42 which has not been established as taken by the Government of Cuba.

The Commission has decided that in certification of loss 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that JEWEL SEBASTIANA LAPOINTE 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 Sixty-Eight Thousand Nine Hundred Twenty-Eight Dollars and Eighty-Seven Cents (\$68,928.87) with interest 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

JUL 23 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

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).)