

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

IN THE MATTER OF THE CLAIM OF

WYLIE BRUCE JOHNSON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3206

Decision No. CU - 4175

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$17,670.00 was presented by WYLIE BRUCE JOHNSON based on the asserted loss of certain real and personal properties in Cuba. 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 he lost a 20 acre farm in Buenavista, Sierra de Casas, Nueva Gerona located on the Isle of Pines, Cuba, including the improvements thereon, consisting of a house, barn and related structures, the personalty therein; and a skiff, a power mower, a jeep, and other items of personalty used in the operation of the farm.

The record contains a copy of the agreement of sale of the farm in question to claimant and Sidsel Johnson dated May 15, 1956, and a copy of a 1958 agreement wherein Sidsel Johnson released to claimant her right, title, and interest in this farm.

Claimant has also furnished an itemized list of the personal effects including cost, dates of acquisition, and the title for the jeep.

On the basis of the entire record, the Commission finds that claimant owned the farm in question, the improvements thereon, and the items of personalty in question.

Claimant states that he had left a caretaker to look after his farm, and that according to information received from neighbors in the area, the caretaker was dispossessed by a Cuban Government agent who moved in about July 1, 1960. Based on the evidence of record the Commission finds that the Cuban Government confiscated claimant's real and personal property on July 1, 1960.

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.

With regard to the portion of this claim based on the loss of the farm including the improvements thereon, claimant has submitted photographs of the house, barns and outbuildings and a portion of the orchard on this farm, which the Commission has considered, as well as all other evidence of record, including the purchase document and evidence available to the Commission as to the value of similar properties in Cuba. Based on the entire record, the Commission finds that the value of the realty and improvements, on the date of loss was \$9,700.00.

With regard to the personalty, the Commission finds upon consideration of claimant's listing, and evidence of values of similar properties, that after appropriate depreciation, the sum of \$2,920 is the fair and reasonable value thereof.

The Commission, therefore, concludes that claimant sustained a total loss in the amount of \$12,620.00 within the meaning of Title V of the Act as a result of the taking of the property by the Government of Cuba on July 1, 1960.

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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case, it is so ordered.

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CERTIFICATION OF LOSS

The Commission certifies that WYLIE BRUCE JOHNSON 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 Twelve Thousand Six Hundred Twenty Dollars (\$12,620.00) with interest thereon at 6% per annum from July 1, 1960 to the date of settlement.

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

NOV 7 1969

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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