

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

IN THE MATTER OF THE CLAIM OF

CARMEN B. KAUFMAN
JOHN R. A. BEATTY
and
SOFIA S. de BEATTY

Claim No. CU-3242
Claim No. CU-3243
Claim No. CU-3244

Decision No. CU

4390

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants Carmen B. Kaufman
and Sofia S. de Beatty:

John R. A. Beatty, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, each for \$33,000.00 were presented by CARMEN B. KAUFMAN, JOHN R. A. BEATTY and SOFIA S. de BEATTY, based upon the asserted loss of a rental property and personalty in Cuba. Claimants have been nationals of the United States at all times pertinent to these claims.

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.

Claimants contend that they have lost real property in Cuba valued at \$84,000.00. They describe this property as follows:

A plot of land approximately 133 feet by 66 feet, upon which a house was built in 1916 for approximately \$21,000, of cement construction; an additional floor and the cellar being added in 1920 at a cost of \$17,000; and which was converted in 1946 at a cost of \$16,000 into two apartments each having a living room, dining room, kitchen, three bedrooms, two baths, maid's room and bath.

The record establishes that claimants each owned a one-third interest in the above-described property at Calle 2, esq. 11, No. 212, Vedado, Havana, Cuba.

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 (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). 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.

Based on the foregoing and the evidence of record, the Commission finds that claimants' real property in Havana, Cuba, was taken

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by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette.

Accordingly, the Commission concludes that claimants suffered a loss of their real property within the meaning of Title V of the Act.

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.

In addition to claimants' description of the property, the record contains a report from sources abroad, and an appraisal by a qualified engineer.

Based on the entire record, the Commission finds that the fair and reasonable value of the land and improvements, on the date of loss, was \$84,000.00. Accordingly, the Commission concludes that each claimant suffered a loss in one-third of that amount within the meaning of Title V of the Act, as the result of the taking of the improved realty by the Government of Cuba as of October 14, 1960.

Claimants have also asserted loss of their individual one-third interests in personal property, at the aforesaid address, having a total asserted value of \$15,000 as of December 1958.

The Commission finds that claimants owned certain personal property which was also taken by the Government of Cuba on October 14, 1960.

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In support of the asserted value, they have submitted an itemized list to which the appraiser ascribes a value of \$15,000 as of December 1958. The Commission has examined this list, in comparison with evidence available as to the value of similar items, and finds that as of the date of loss, the fair and reasonable value of said personalty was \$13,488.50 and concludes that each claimant suffered a loss in one-third of that amount on October 14, 1960.

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 CARMEN B. KAUFMAN 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 Thirty-two Thousand Four Hundred Ninety-six Dollars and Sixteen Cents (\$32,496.16) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement;

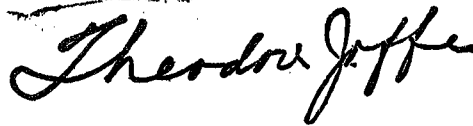
the Commission certifies that JOHN R. A. BEATTY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-two Thousand Four Hundred Ninety-six Dollars and Seventeen Cents (\$32,496.17) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement; and

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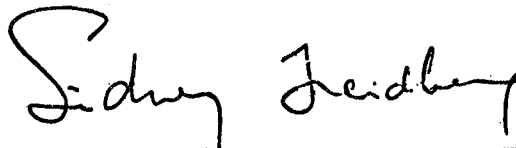
the Commission certifies that SOFIA S. de BEATTY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-two Thousand Four Hundred Ninety-six Dollars and Seventeen Cents (\$32,496.17) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

7 JAN 1970



Theodore Jaffe, Commissioner



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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