

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

IN THE MATTER OF THE CLAIM OF

PETER C. HUFNAGEL

Claim No. CU - 3507

Decision No. CU - 2749

Under the International Claims Settlement
Act of 1949, as amended

Counsels for claimant:
By:

Lee, Toomey & Kent
George P. Lamb, Esq. and
Michael Mulroney, Esq.

AMENDED PROPOSED DECISION

On August 14, 1968, the Commission issued its Proposed Decision in this claim, certifying that claimant had suffered a loss in the amount of \$975.00, as a result of actions of the Government of Cuba. Claimant, through counsel, objected to the Proposed Decision, and thereafter submitted additional evidence and information in support of this claim.

Based upon that additional evidence, the Commission now finds that claimant was the owner of certain personal property as described in the Proposed Decision; that the subject personal property was taken by the Government of Cuba on December 6, 1961, pursuant to Cuban Law 989, published on that date in the Cuban Official Gazette; and that the subject personal property had a total value of \$1,075.00 when taken by the Government of Cuba.

Accordingly, the following certification of loss will be entered, and the remainder of the Proposed Decision, as amended herein, is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that PETER C. HUFNAGEL 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 Thousand Seventy-five Dollars and no Cents (\$1,075.00) with interest at 6% per annum from December 6, 1961 to the date of settlement.

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

SEP 4 1968

Thomas W. B. Sullivan
THOMAS W. B. SULLIVAN, CHAIRMAN
Theodore J. J. J.
THEODORE J. J. J., SECRETARY
Sidney J. J.
SIDNEY J. J., MEMBER

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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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 PETER C. HUFNAGEL, and is based upon the asserted ownership and loss of personal property. Claimant has been a national of the United States since his 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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1)(A) of the Act defines the term national of the United States to mean a natural person who is a citizen of the United States. The term does not include aliens.

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 asserts the ownership and loss of certain personal property, including clothing, books, tools, musical instruments, and other personal effects, having a total value of \$975.00.

On the basis of the entire record and the state of Cuban law at the time of the transaction, the Commission finds that claimant was the owner of certain personal property as described above.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p.23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. As the record shows, claimant was not residing in Cuba at that time. The Commission finds, in the absence of evidence to the contrary, that the subject personal property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record the Commission finds that \$975.00 is a fair value for the personal property of claimant when it was taken by the Government of Cuba.

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.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that PETER C. HUFNAGEL 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 Nine Hundred Seventy-Five Dollars (\$975.00) 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

AUG 14 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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