

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

IN THE MATTER OF THE CLAIM OF

LEO A. CULVER

Claim No. CU-0047

Decision No. CU-1743

Under the International Claims Settlement
Act of 1949, as amended:

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$23,289.00, was presented by LEO A. CULVER, and is based upon the asserted loss of an investment in land, transfer fees and interest paid by the claimant. The claimant herein has been a national of the United States since his 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 (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 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) of the Act defines the term "national of the United States" to mean "(A) 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.

The evidence of record herein includes a Contract of Sale, dated April 8, 1957, property registration slip of the City of Marianao issued in June 1957, data and correspondence between claimant and others in Cuba pertaining to payment of transfer fees and registration of the property in claimant's name, as well as statements made by claimant concerning the property, subject of the claim. The record also includes information available to the Commission, which discloses that the claimant herein, LEO A. CULVER, was the registered owner of the improved parcel of land, in question, 50.50 X 84 meters, which was located at the corner of Streets 5-6, Marianao, registered in Book 175, folio 220, Property #5417, including part of parcels 38 and 46 of "La Coronela"; that this property was purchased by the claimant from Elisa Hernandez Pantoja and Evelio Figarola, pursuant to the aforesaid Contract of Sale dated April 8, 1957, before Notary Abel T. Tolon y Hernandez; and that no mortgages were outstanding against this parcel of land.

Based upon the entire record, the Commission finds that claimant was the owner of the aforesaid parcel of land in Marianao, without improvements, and ownership of such land had been registered in claimant's name in the land register of EL Cano, Marianao, Havana, Cuba.

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, in December 1961, claimant no

longer resided in Cuba. The Commission finds, in the absence of evidence to the contrary, that claimant's investment in the subject real property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

The evidence of record includes a Statement dated July 21, 1960, directed to the Embassy of the United States in Havana by the claimant wherein he describes the property and his acquisition of same in 1957. Further, the claimant has submitted the Contract of Sale, dated April 8, 1957, discussed above, wherein the sales price of \$19,000.00 is set forth as the consideration paid by claimant for the land, subject of this claim. Claimant has also submitted evidence disclosing that he paid the sum of \$1,289.00 in transfer of registration fees, notarial and agents fees, in the acquisition of the land. Additionally, the Commission has available to it information concerning the value of this particular parcel of land and similar properties in the Havana area of Cuba. Based upon the entire record, the Commission concludes that this parcel of land, subject of the claim, had a value of \$20,289.00, at time of taking and claimant suffered a loss in that amount, within the meaning of Title V of the Act, when the aforesaid real property owned by claimant 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.

This leaves for consideration a portion of the claim asserted by claimant, in the amount of \$2,000.00, which was asserted for loss of interest that claimant paid on a loan he contracted in Cuba, as debtor. The Commission finds that claimant has not established an ownership or proprietary interest in such

interest payments assertedly paid by him or that funds owned by claimant were taken by the Government of Cuba. Accordingly, the Commission finds that claimant has failed to establish that this portion of his claim is within the purview of Section 503 of the Act and it is hereby denied. The Commission deems it unnecessary to determine other portions of the claim for loss of such interest payments.

CERTIFICATION OF LOSS

The Commission certifies that LEO A. CULVER 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 Twenty Thousand Two Hundred Eighty-Nine Dollars (\$20,289.00) with interest thereon 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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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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