

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

IN THE MATTER OF THE CLAIM OF

LAWRENCE A. SOPER, JR.
and
ANN NEBLETT SOPER

Claim No. CU - 0054

Decision No. CU **5648**

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, was presented by LAWRENCE A. SOPER, JR., for \$68,110.00 based upon the asserted loss of personal property, including a claim for retirement pension, in Cuba. Claimant, LAWRENCE A. SOPER, JR., has been a national of the United States since birth.

Inasmuch as ANN NEBLETT SOPER, a national of the United States since birth had an interest in the subject matter of this claim, she is joined as claimant herein.

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 have described their losses as follows:

1) Personal Property, furnishings, and personal effects:	\$ 4,720.00
2) Automobile:	3,000.00
3) Cuban Currency (6,000 pesos):	6,000.00
4) Pension:	<u>54,390.00</u>
Total	<u>\$68,110.00</u>

The record includes claimants' statement of personal property losses filed with the American Embassy in Havana on October 6, 1960; documents respecting the confiscation of an automobile owned by claimants; and copies of official notices of the Cuban Ministry of Labor relating to the pension rights of claimant, LAWRENCE A. SOPER, JR.

Personal Property

On the basis of the evidence of record, and pursuant to the Community Property Law of Cuba the Commission finds that claimants each owned a one-half interest in personal property consisting of household furnishings at their rented residence at Marianao, Cuba.

The record establishes that claimants left Cuba on March 20, 1961. On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds, bank accounts and other securities of persons who left Cuba. On the basis of the foregoing, the Commission finds that Law 989 applied to the above-mentioned personal property, and that it was taken on December 6, 1961 by the Government of Cuba. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

On the basis of the evidence of record, the Commission further finds that claimants owned, in equal shares, a 1958, 4-door Chevrolet sedan, and that said automobile was also taken by the Government of Cuba on December 6, 1961.

The record includes a detailed list of the furniture, furnishing, and appliances at claimants' former home at No. 3636 Avenida 49 in Marianao with indication of their value, amounting to a total of \$5,520.00. Such list was prepared by LAWRENCE A. SOPER, JR., on October 5, 1960, in anticipation of claimants' departure from Cuba.

Based upon the entire record, the Commission finds that on the respective dates of loss the fair and reasonable value of the furniture, furnishing, and appliances amounted to a total of \$4,720.00 and the value of the Chevrolet automobile was \$1,195.00, of which the value of a one-half interest amounted to \$2,360.00 and \$597.50, respectively, and that claimants sustained losses in these amounts within the purview of Title V of the Act.

Pension

It is asserted by LAWRENCE A. SOPER, JR., that he was entitled to a pension of 500.00 pesos per month from Caja de Retiro de Trabajadores de Plantas Electricas, Gas y Agua (Retirement Fund for Workers of Electric, Gas, and Water Works, hereafter referred to as Retirement Fund) in Havana, Cuba. It is further asserted that as of April 1, 1961, no amounts on account of such pension right were received by LAWRENCE A. SOPER, JR.

On the basis of a copy of Resolucion No. 1225 of February 8, 1961, issued by the Direccion de Seguridad Social del Ministerio del Trabajo, an agency of the Government of Cuba, and in the absence of evidence to establish the higher rate asserted by claimant, the Commission finds that LAWRENCE A. SOPER, JR., was awarded a pension of 400.00 pesos per month.

On May 29, 1959, Law No. 351 was enacted which provided for the establishment of the Banco de Seguros Sociales de Cuba (Social Insurance Bank of Cuba) as an agency of the Government of Cuba to supervise and administer social insurance, as well as to direct the policy concerning all social security matters. The law also provided for the transfer of the assets and liabilities of all pension funds to the Banco de Seguros Sociales de Cuba (BANSESCU). Information available to the Commission shows that retired employees continued to receive monthly pension benefits from said bank until their departure from Cuba. Thereafter, the benefits remained unpaid. As noted above, claimant left Cuba on March 20, 1961. On the basis of the evidence of record, the Commission finds that from April 1, 1961, and thereafter, the Government of Cuba refused to transfer any pension benefits to claimant, LAWRENCE A. SOPER, JR., who was then residing in the United States.

In our decision entitled the Claim of A. M. Joy de Pardo (Claim No. CU-1906 which we incorporate herein by reference), we held that the refusal of the Government of Cuba to transfer retirement benefits to claimant constituted a taking of his property within the purview of Section 503(a) of the Act. Accordingly, the Commission finds that claimant's claim for the loss based upon such taking in the instant claim arose on April 1, 1961.

The Commission has adopted as a basis for the valuation of annuities the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F. R. 4547, 26 C.F.R. 2031-7.) According to that method of valuation, the value of the annuity for a person of the age of 61 amounts to 10.9776 times \$4,800.00, the yearly sum of the annuity. Since on April 1, 1961, claimant was 61 years of age, the value of his discounted annuity on that date amounted to \$4,800.00 (the peso being on a par with the United States dollar) times 10.9776, or \$52,692.48, and the Commission finds that

claimant, LAWRENCE A. SOPER, JR., sustained a loss within the purview of Title V of the Act in that amount.

Cash

Claimants state that they lost cash in Cuba totalling \$6,000.00. According to claimants' statements, the sum of \$6,000.00 was secured in an envelope and deposited with unnamed friends in Cuba. No evidence, documentary or otherwise, has been submitted in support of this portion of the claim. Accordingly, this portion of the claim is denied. (See Claim of Joseph Simone, Claim No. CU-1021.)

Claimants' losses may be summarized as follows:

LAWRENCE A. SOPER, JR.:

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
Personal Property	December 6, 1961	\$ 2,360.00
Automobile	December 6, 1961	597.50
Pension	April 1, 1961	<u>52,692.48</u>
		<u>\$55,649.98</u>

ANN NEBLETT SOPER:

Personal Property	December 6, 1961	\$ 2,360.00
Automobile	December 6, 1961	<u>597.50</u>
		<u>\$ 2,957.50</u>

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, as follows:

<u>NAME</u>	<u>FROM</u>	<u>ON</u>
LAWRENCE A. SOPER, JR.:	December 6, 1961	\$ 2,957.50
	April 1, 1961	<u>52,692.48</u>
		<u>\$55,649.98</u>
ANN NEBLETT SOPER:	December 6, 1961	<u>2,957.50</u>


CERTIFICATIONS OF LOSS

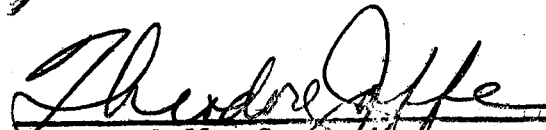
The Commission certifies that LAWRENCE A. SOPER, JR. sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-five Thousand Six Hundred Forty-nine Dollars and Ninety-eight Cents (\$55,649.98) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that ANN NEBLETT SOPER sustained 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 Two Thousand Nine Hundred Fifty-seven Dollars and Fifty Cents (\$2,957.50) 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

AUG 6 1970


Lyle S. Garlock, Chairman


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).)