

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

IN THE MATTER OF THE CLAIM OF

J. R. McFARLAND
and
G. J. McFARLAND
d.b.a.
THE CUBAN PLANTATION COMPANY

Claim No. CU -0093

Decision No. CU 3499

Under the International Claims Settlement
Act of 1949, as amended

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 THE CUBAN PLANTATION COMPANY in the amount of \$40,000.00 based upon the asserted loss of real property located in San Andres, Oriente Province, Cuba.

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.

The record includes a copy of a Partnership Agreement establishing that THE CUBAN PLANTATION COMPANY is a partnership consisting of two partners, J. R. McFarland and G. J. McFarland, both of whom have been nationals of the United States since birth. The Commission holds, therefore, that claimant, THE CUBAN PLANTATION COMPANY, is a national of the United States within the meaning of the Act.

Claim is made herein for 28 caballerias of land with a farmhouse, known as the Sabanilla Plantation, San Andres, Oriente Province, Cuba. The record contains a report from sources within Cuba, a copy of a judicial decree of May 25, 1953, correspondence with claimant's Cuban attorney, and a land survey.

On the basis of the evidence of record, the Commission finds that THE CUBAN PLANTATION COMPANY was the owner of 28 caballerias of land and a farmhouse in San Andres, Cuba and, in the absence of evidence to the contrary, that the land and building were taken by the Government of Cuba on October 30, 1959 pursuant to Law 588, published in the Official Gazette on October 7, 1959, which Law contained the regulations for carrying out the provisions of the Agrarian Reform Law of May 17, 1959.

In determining the value of the property thus taken, the Commission has considered the purchase price of the property, the value asserted by the partners, the quality and use of the land, the description of the building, and other information available to the Commission including appraisals of land in Oriente Province. On the basis of the entire record, the Commission finds that at the time of loss, the aggregate value of the 28 caballerias of land was \$73,640.00 and the value of the building was \$2,000.00, and concludes that claimant suffered a loss in the amount of \$75,640.00 within the meaning of Title V of the Act.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

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 ordered.

CERTIFICATION OF LOSS

The Commission certifies that J. R. McFARLAND and G. J. McFARLAND d.b.a. THE CUBAN PLANTATION COMPANY 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 Seventy-five Thousand Six Hundred Forty Dollars (\$75,640.00), with interest thereon at 6% per annum from October 30, 1959 to the date of settlement.

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

FEB 5 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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).)