

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

IN THE MATTER OF THE CLAIM OF

ANDREW SAMPSON HOLLIDAY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0189 .

Decision No. CU-29

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 ANDREW SAMPSON HOLLIDAY, for \$7,701.30 based upon the asserted ownership and loss of an interest in land and a bank account. Claimant has been a national of the United States since his birth in the United States.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 St. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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(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.

Real Property

Claimant contends that he has lost an investment in real property in Cuba valued at \$7,523.50. He has submitted copies of two bills of sale of November 25, 1957 evidencing the sale to him, by Luiston A. Ebanks, of two parcels of land, parcel No. 1183 of Lot 6 and parcel No. 1297 of Lot 6, in Section 70, West of McKinley, Santa Barbara, Isle of Pines, Cuba. The record establishes that title to the two parcels, each consisting of ten acres, had been registered in claimant's name.

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 parcels 1183 and 1297, of Lot 6, Section 70, in the section called West of McKinley, in the Isle of Pines, a province of 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.

Claimant has stated that although checks were sent to Cuba for payment of taxes, the last receipts were dated in April, 1961. Claimant was then resident in the United States. The Commission finds, in the

absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See In the Matter of the Claim of Wallace Tabor and Catherine Tabor, FCSC Claim No. CU-0109.)

Claimant has submitted documentation evidencing his initial investment of \$6,314.00 in the land, with improvements and related expenses totaling \$1,209.50. Based on the entire record, the Commission finds that the land, including improvements, had a value of \$7,523.50. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$7,523.50 within the meaning of Title V of the Act, as the result of the taking of his land by the Government of Cuba as of December 6, 1961.

Bank Account

Claimant also contends that he has lost a bank account in Cuba having a balance of 177.80 pesos. In support of this item of claim claimant has submitted a statement of the Banco Nacional de Cuba reflecting that the last balance in his account had been 177.80 pesos.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these things affected the account of the claimant in Claim No. CU-0189.

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961 gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name.

This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-0189, in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. In the absence of evidence to the contrary, the Commission finds that claimant's above described bank account, totalling 177.80 pesos, was taken by the Government of Cuba on December 6, 1961. (See In the Matter of the Claim of Floyd W. Auld, FCSC Claim No. CU-0020.)

Further, the Commission finds that on December 6, 1961, claimant's 177.80 pesos had a value of \$177.80 and that he suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of his bank account by the Government of Cuba as of December 6, 1961.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of American Cast Iron Pipe Company, FCSC Claim No. CU-0249).

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 losses occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ANDREW SAMPSON HOLLIDAY 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 Seven Thousand Seven Hundred One Dollars and Thirty Cents (\$7,701.30) 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.

A.Y.

18 JAN 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Lavern R. Dilweg

Lavern R. Dilweg, Commissioner

ITS DECISION WAS ENTERED AS THE COMMISSION'S
FINAL DECISION ON MAR 9 1967

Francis M. ...
Clerk of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 20 days after service or receipt of notice of this Proposed Decision upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) (1964))