

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

IN THE MATTER OF THE CLAIM OF

FRANK STEINHART, JR.

Under the International Claims Settlement
Act of 1949, as amended

*Amended Final Dec. filed
after Final Dec.*

Claim No. CU - 0231

Decision No. CU - 6076

Counsel for claimant:

Rufus King, Esq.

Appeal and objections from a Proposed Decision entered February 17, 1971.
Oral hearing requested.

Oral argument September 15, 1971 by Rufus King, Esq.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on February 17, 1971, certifying that claimant suffered a loss of \$137,400 within the scope of Title V of the International Claims Settlement Act of 1949, as amended, resulting from actions of the Government of Cuba.

Claimant objected to the Proposed Decision and requested an oral hearing which was held on September 15, 1971. In support of the objections to which reference is made in more detail below, claimant submitted additional documentary evidence. At the hearing counsel for claimant introduced the testimony of Kenneth Crosby, former manager of the Havana agency of Merrill Lynch, Pierce, Fenner & Smith, investment brokers; of Jose M. Diaz III, one of claimant's personal friends; and of claimant himself. After examination of the witnesses, claimant's counsel withdrew the objections relating to \$200,000 4-1/2% Income Debentures of the Cuban Electric Company, and presented argument in support of the remainder of the objections.

On the basis of the new evidence, testimony of witnesses and argument of counsel, the Commission now finds the following:

(a) Finca "Happy Hollow"

Claimant's objections that the Finca "Happy Hollow" had over 100 acres are well founded. The record shows that in 1939, at the time of death of claimant's father Frank Steinhart, Sr., the Finca "Happy Hollow" consisted of 11-1/2 acres, but in early 1940's while claimant was married to Lillian K. Smith, his first wife, claimant purchased additional 90 acres of neighboring land. Claimant's testimony revealed and the record shows that claimant divorced his first wife Lillian K. Smith on June 1, 1948 and that claimant's property, then in his name, remained his separate property after the divorce. Considering all the evidence before it, the Commission finds that the Finca "Happy Hollow" measuring slightly more than 100 acres at the time of taking had a value of \$200,000.00 and that claimant suffered a loss in that amount.

(b) Land in Cojimar

Claimant objected to the valuation of the land he owned in Cojimar and the Commission finds, on the basis of the new evidence and of the entire record that the value of the vacant land in Cojimar at the time of taking was \$8.00 per sq. meter. Claimant's interest in the land was equivalent to 3,003.31 sq. meters and his loss is therefore expressed in the amount of \$24,026.48.

(c) Land in Marianao

Claimant submitted documentary evidence which shows that he purchased on April 11, 1945 a land parcel numbered 17A of the Country Club section in the Municipality of Marianao, measuring 3,846.58 sq. meters. For the reasons stated above, the Commission finds that claimant remained the sole owner of this land parcel also after his divorce from Lillian K. Smith.

The record further shows that at the time of its taking, on December 6, 1961, the land had a value of \$45.00 per sq. meter or \$173,096.10, and the Commission finds that claimant in connection with this land suffered a loss in that amount.

(d) Land in Santa Fe

Claimant submitted documentary evidence which shows that he purchased on April 9, 1948 land measuring 5,836.98 sq. meters in the area of Santa Fe, near Havana. This portion of the claim has not been asserted before and the amount of the claim was increased to include this property. Claimant testified that he considered this land as having been in community property with his present wife Olga America Rey Moran, not a national of the United States, and the Commission finds that claimant owned a one-half interest therein.

The Commission further finds that at the time of its taking, on December 6, 1961, this land had a value of \$8.00 per sq. meter or \$46,695.84 for its entire area. The Commission concludes that claimant suffered a loss commensurate to his one-half interest in the land in the amount of \$23,347.92.

(e) Shares of Stock of "La Cubana"
Compania Nacional de Seguros

Claimant objected to the denial of his claim based upon the ownership of 350 shares of the insurance company "La Cubana" Compania Nacional de Seguros, a corporation organized under the laws of Cuba. The testimony of the witnesses and the entire record show that claimant was, in fact, the sole owner of 350 shares of the aforesaid insurance company, founded by his father and whose shares claimant inherited upon his death in 1939.

A corporation organized under the laws of Cuba does not qualify as a corporate "national of the United States", defined under Section 502(1)(B) of the Act. In this type of situation it has been held that an American stockholder is entitled to file a claim based upon an ownership interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33). Therefore claimant is entitled to assert this claim for his stockholder's interest owned in the Cuban corporation.

The record shows that at the time of taking of claimant's securities, one share of stock of "La Cubana" Compania Nacional de Seguros was worth \$90.00 and the Commission finds that in connection with these securities claimant suffered a loss of \$31,500.00.

Claimant's losses are now restated as follows:

| | |
|---|------------------|
| (1) Finca Happy Hollow | \$200,000.00 |
| (2) House at No. 120 Prado, Havana | 57,500.00 |
| (3) Land in San Miguel del Padron | 2,000.00 |
| (4) Land in Cojimar | 24,026.48 |
| (5) Land in Marianao (Country Club Section) | 173,096.10 |
| (6) Land in Santa Fe | 23,347.92 |
| (7) "La Cubana" securities | <u>31,500.00</u> |
| Total | \$511,470.50 |


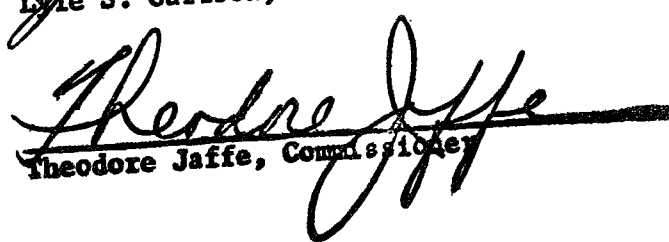
Accordingly, the Certification of Loss in the Proposed Decision is set aside, the following Certification of Loss will be entered, and the remainder of the Proposed Decision, as amended herein, is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that FRANK STEINHART, JR. 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 Five Hundred Eleven Thousand Four Hundred Seventy Dollars and Fifty Cents (\$511,470.50) 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 Final
Decision of the Commission

SEP 28 1971


 Lyle S. Garlock, Chairman

 Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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.

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

IN THE MATTER OF THE CLAIM OF

FRANK STEINHART, JR.
and
ALICE STEINHART DE LA LLAMA

Claim No. **CU**-0231

Decision No. **CU**-6076

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Rufus King, Esq.

Petition to Reopen; Proposed Decision entered February 17, 1971; Final
Decision entered September 28, 1971.

AMENDED FINAL DECISION

This claim, originally opened by FRANK STEINHART, JR., based on inherited and purchased property, was the subject of Proposed and Final Decisions. Thereafter claimant petitioned that his sister ALICE STEINHART DE LA LLAMA be permitted to join in the claim for her interests in the said inherited property, and for her other property.

The petition having been considered, and ALICE STEINHART DE LA LLAMA having been a national of the United States at all times pertinent to this claim, it is granted.

The Commission previously found that FRANK STEINHART inherited a one-fourth interest in a plot of 10,000 square meters in Cojimar, valued at \$8.00 per square meter, and now finds that ALICE STEINHART DE LA LLAMA also inherited a one-fourth interest in said plot, which was taken on December 6, 1961, and that she thereby suffered a loss of \$20,000. This claimant had no interest in another plot of 1,006.62 square meters owned in one-half part by her brother.

Further the Commission finds that ALICE STEINHART DE LA LLAMA inherited a one-fourth interest in property at 120 Prado, Havana, which was taken on December 6, 1961, and that she thereby suffered a loss of \$57,500.

Additionally, based on the record, the Commission finds that pursuant to the community property law of Cuba, claimant ALICE STEINHART DE LA LLAMA owned a one-half interest in a residence at Varadero Beach, with certain personalty therein. The Commission finds that this property was also taken by the Government of Cuba on December 6, 1961.

In arriving at the value thereof, the Commission has considered the claimant's figures indicating a valuation of \$60,000 for the land, and \$60,000 for the house; her brother's affidavit describing the property as a 4-bedroom house, with usual living facilities, and beach frontage; his assertion that an offer of \$90,000 for the property had been refused. Considering this and the values of similar properties in Cuba, the Commission finds that the improved realty had a value of \$100,000 and that claimant suffered a loss of \$50,000 in this connection.

Further, the Commission finds that claimant's interest in furnishings including kitchen appliances and garden equipment had a value of \$2,500, taken on December 6, 1961.

Re-examination of the file discloses that in the Final Decision restating the losses of FRANK STEINHART, JR. there was inadvertently omitted the item of land in Buena Vista having a value of \$1,900 which however, was certified in the Proposed Decision.

Accordingly, the claimants' losses, suffered on December 6, 1961, are restated as follows:

FRANK STEINHART:

| | |
|--|-----------------|
| (1) Finca Happy Hollow | \$200,000.00 |
| (2) House at No. 120 Prado, Havana (1/4) | 57,500.00 |
| (3) Land in San Miguel del Padron | 2,000.00 |
| (4) Land in Cojimar (1/4) | 20,000.00 |
| (5) Land in Cojimar (1/2) | 4,026.48 |
| (6) Land in Marianao | 173,096.10 |
| (7) Land in Santa Fe | 23,347.92 |
| (8) "La Cubana" securities | 31,500.00 |
| (9) Land in Buena Vista | <u>1,900.00</u> |
| | \$513,370.50 |

ALICE STEINHART DE LA LLAMA:

| | |
|----------------------------------|---------------------|
| (1) Land in Cojimar (1/4) | \$ 20,000.00 |
| (2) House at No. 120 Prado (1/4) | 57,500.00 |
| (3) Varadero residence (1/2) | 50,000.00 |
| (4) Personalty (1/2) | 2,500.00 |
| | <u>\$130,000.00</u> |

The Commission affirms its holding that interest shall be included in the Certifications of Loss from the date of loss to the date of settlement.

Accordingly, the Certification of Loss in the Final Decision is set aside and the following Certifications of Loss will be entered.

CERTIFICATIONS OF LOSS

The Commission certifies that FRANK STEINHART, JR. 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 Five Hundred Thirteen Thousand Three Hundred Seventy Dollars and Fifty Cents (\$513,370.50) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement; and

The Commission certifies that ALICE STEINHART DE LA LLAMA 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 Hundred Thirty Thousand (\$130,000.00) 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 Amended Final Decision of the Commission

JUN 30 1972

Lyle S. Garlock
Lyle S. Garlock, Chairman

Kieran O'Doherty
Kieran O'Doherty, Commissioner

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

IN THE MATTER OF THE CLAIM OF

FRANK STEINHART, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0231

Decision No. CU -6076

Counsel for claimant:

Rufus King, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$486,500.00 was presented by FRANK STEINHART, JR. based upon the asserted loss of real property, and of stock and bond interests. 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 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.

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.

Claimant states that he owned a landed estate, known as finca "Happy Hollow" in San Francisco de Paula, near Havana, Cuba, with farm buildings and equipment thereon; a dwelling house in Havana; several land parcels in the outskirts of Havana, 350 shares of stock of a Cuban insurance company; and 250 debentures of the Cuban Electric Company; and that this property was taken by the Government of Cuba.

The record shows that claimant was married to Olga America Rey Moran, a national of the Republic of Cuba.

According to the community property laws of Cuba, the properties acquired by one or both spouses during the marriage with money of the marriage partnership or by the industry, salary or work of either or both spouses, and the fruits thereof, belong in equal parts to both spouses (see Claim of Robert L. Cheaney et al., Claim No. CU-0915). Accordingly, the property discussed below will be deemed as having been owned by the claimant and his wife, except where the record shows that the property was acquired by the claimant prior to the marriage, or by gift or inheritance. Inasmuch as there is no evidence that claimant's wife was a national of the United States at any time pertinent to this claim and no claim has been filed by her or on her behalf, her interests in the properties will not be considered here.

In support of the claim, claimant has submitted a description of the real property upon which the claim is based and an affidavit of a business associate who states that he has examined the claim and believes that the amount of the claim is reasonable.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The question in all cases will be to determine the basis of valuation which, under the particular circumstances, is most appropriate to the property and equitable to the claimant. This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

On the basis of the evidence submitted by the claimant and all the evidence of record, the Commission makes its findings of facts regarding the various property items under separate headings, as set forth below.

(1) Finca "Happy Hollow"

The record shows that claimant inherited from his father Frank Steinhart a landed estate within the municipality of Guanabacoa, in the district of San Francisco de Paula, subsection of San Miguel del Padron, known as finca "Happy Hollow", measuring 43,451.58 square meters (or approximately 11-1/2 acres). The record further shows that this property was improved with buildings and farm structures and that the personal property on the estate included farm machinery and equipment.

Claimant left Cuba in March 1960. On December 6, 1961 the Cuban Government published in the Official Gazette Law No. 989 which effectively confiscated all assets, real and personal property, rights, shares of stock, bonds and other property of persons who left the country. The Commission therefore finds that claimant's interests in the aforementioned property, as well as in the properties discussed below, in the absence of evidence to the contrary, were taken by the Government of Cuba on December 6, 1961.

In 1939, when claimant acquired the finca "Happy Hollow" by inheritance from his father, the assessed value of the unencumbered property was \$37,000.00. In view of the considerable appreciation of real property values in the outskirts of Havana, including the area of San Francisco de Paula, the Commission finds that at the time of loss this property, free of encumbrances, was worth \$70,000.00 and that claimant, sole owner of the property, suffered a loss as the result of actions of the Cuban Government, in the amount of \$70,000.00.

(2) House in Havana

The record further shows that claimant also inherited a 1/4 interest in a piece of real estate situated at No. 120 Prado, in the center of the city of Havana, consisting of land measuring approximately one acre, improved with a dwelling containing 25 rooms and auxiliary quarters. This property was acquired by claimant's father in 1910, but since that time the house was rebuilt, renovated and redecorated.

In 1939, when claimant inherited his 1/4 interest in the property, the assessed value of the entire property was \$120,000.00. In view of the appreciation of values which took place in the city of Havana between 1939 and 1961, the Commission finds that this property, free of encumbrances, at the time of taking was worth \$230,000.00 and claimant's loss of his 1/4 interest in the property amounted to \$57,500.00.

(3) Land in San Miguel del Padron

Claimant acquired in 1939, prior to his marriage to Olga America Rey Moran, a building lot situated in San Miguel del Padron, a suburb of Havana, measuring 1,933.54 square meters. The Commission therefore finds that claimant was the sole owner of this land, which at all times pertinent to this claim, was free of encumbrances. The record shows that claimant paid for the land \$800.00, but in view of the appreciation of the real property values between 1939 and 1961, the Commission finds that claimant at the time of taking suffered a loss with respect to this property in the amount of \$1,500.00.

Claimant further acquired in 1951, while married, parcels Nos. 18 and 19 of lot No. 11, formerly part of the finca "Las Cosas" also known as "Paraiso", measuring 797.80 square meters for \$1,000.00. Considering the community property laws of Cuba, the Commission finds that claimant had a one-half interest in this property, that the same was free of encumbrances, and that claimant suffered a loss of \$500.00.

(4) Land in Cojimar

The record shows that in 1939 claimant also inherited a 1/4 interest in building lot No. 96 in the town of Cojimar, municipality of Guanabacoa, between Calle 28 and Calle 29 on one side and Calle de la Cueva and Calle Calixto Garcia on the other side covering an entire block of 10,000 square meters, suitable for building purposes. The Commission, therefore, finds that claimant was the owner of a 1/4 interest in this property.

The record further shows that expropriation proceedings for this property were instituted as early as Spring 1959, but that these proceedings were still pending in Cuban courts when claimant's interest in the property became subject to the provisions of the above-mentioned Law No. 989 of December 6, 1961.

Based upon the entire record, the Commission finds that at the time of taking one square meter of vacant land in the town of Cojimar in the area described above had a value of \$2.00 per square meter and that claimant suffered a loss of \$5,000.00 as a result of the expropriation of this property.

Claimant acquired in 1949 by purchase a building lot situated in the section "Reperto Habana Nueva", in the town of Cojimar, measuring 1,006.62 square meters. The record indicates that claimant, then married, paid for this lot \$2,000.00.

Considering the Cuban community property laws (supra) the Commission finds that claimant had a 1/2 interest in this property; that the property was free of encumbrances at the time of taking, and that claimant suffered a loss in the amount of \$1,000.00.

(5) Land in Buena Vista

The record further shows that claimant inherited a 1/4 interest in a vacant lot No. 13 in the residential section of Buena Vista, in the municipality of Marianao, a suburb of Havana, and that he acquired prior to his marriage to his wife Olga an additional 1/4 interest in the property from his sister Florence. The Commission, therefore, finds that claimant was the owner of a 1/2 interest in the aforesaid vacant lot No. 13 which at the time of inheritance had an assessed value of \$2,000.00. In view of the appreciation of property values in the residential sections of the suburb of Buena Vista, the Commission holds that at the time of taking the entire lot was worth \$3,800.00, and that claimant suffered a loss with respect to this property in the amount of \$1,900.00.

(6) Land in Marianao

Claimant states that he was the owner of improved real property situated in the Country Club Park section of Marianao, a suburb of Havana.

The Commission was unable to ascertain this fact and claimant has failed to substantiate this portion of the claim with any convincing evidence.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

The Commission finds that claimant has failed to sustain the burden of proof with respect to this item of the claim and the same is hereby denied.

(7) Stocks and Bonds

Claimant states that he had on deposit with "La Cubana", Compania Nacional de Seguros (National Insurance Company) certificates for 350 shares in the capital stock of that insurance company, and with the Banco Gelats, of Havana, 250 debentures of the Cuban Electric Company. Claimant, however, has failed to submit any evidence to show in whose name the stock certificates were deposited, nor did he furnish any proof of their value. He also failed to submit sufficient evidence to show in whose name were deposited the debentures of the Cuban Electric Company.

With respect to these debentures, the Commission records disclose that the Cuban Electric Company, a United States corporation organized under the laws of Florida, issued Income Debenture Bonds bearing 4-1/2% annual interest, due January 1, 1985, which were not secured by any mortgage, lien or charge on the property of the company.

Section 505(a) of the Act provides:

A claim under section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Commission has previously held that unsecured debt obligations of the Cuban Electric Company cannot be considered. (See Claim of Anaconda American Brass Co., Claim No. CU-0112, 1967 FCSC Ann. Rep. 60.) Therefore, the portion of the claim for stocks and bonds must be and it is hereby denied.

Recapitulation

Claimant's certifiable losses are summarized as follows:

| | |
|--------------------------------------|-----------------|
| (1) Finca "Happy Hollow" | \$ 70,000.00 |
| (2) House at No. 120 Prado in Havana | 57,500.00 |
| (3) Land in San Miguel del Padron | 2,000.00 |
| (4) Land in Cojimar | 6,000.00 |
| (5) Land in Buena Vista | <u>1,900.00</u> |
| Total | \$137,400.00 |


The Commission has decided that in certifications of loss 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.

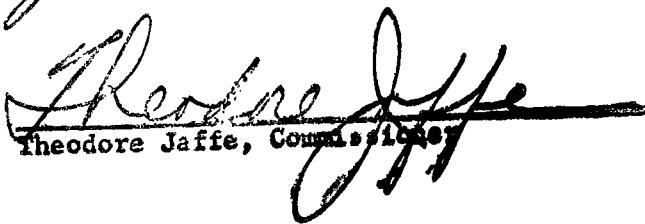
CERTIFICATION OF LOSS

The Commission certifies that FRANK STEINHART, JR. 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 Hundred Thirty-seven Thousand Four Hundred Dollars (\$137,400.00) 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

FEB 17 1971


Lyle S. Garlock, Chairman


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. 31.5(e) and (g), as amended (1970).)