

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

IN THE MATTER OF THE CLAIM OF

ANTHONY M. RUTZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0277

Decision No. CU 3745

Counsel for claimant:

Patarini and Collins
by Val R. Patarini, 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 amended amount of \$2,082,268.00, was presented by ANTHONY M. RUTZ based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant has been a national of the United States since 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.

The record contains copies of recorded deeds evidencing ownership of the real property claimed, including copies of court proceedings through which some of the property was inherited; affidavits from individuals having personal knowledge of the facts, who either knew claimant for a number of years in Cuba or had business dealings with claimant in Cuba; as well as detailed statements by claimant concerning the property.

On the basis of the entire record, the Commission finds that claimant owned a large farm, known as "Las Ciegas", in Camaguey, Cuba, consisting of about 2,897 acres, as well as certain personalty appurtenant to the operations of the farm, all of which property is discussed in detail below.

The record indicates that claimant's father acquired the farm in 1914 and claimant lived there with his family and worked on the ranch during most of his life. In consideration of claimant's many years of labor and devotion, claimant's father gave claimant a portion of the ranch, referred to as Lot #2, comprising about 965 acres, in 1940. Upon his father's death on June 1, 1942, the balance of the ranch, about 1,932 acres, referred to as Lot #1, was inherited by claimant, his brother and his sister. The record shows that claimant purchased the shares inherited by his brother and sister in 1943, so that claimant owned the entire ranch of about 2,897 acres.

Claimant continued to devote all his energies to improving his farm and reinvested nearly all of the income he derived in further improvements of "Las Ciegas". As a result, the farm developed into an improved estate which included orange groves, mahogany timber, other hardwood timber, Spanish cedar timber, fruit orchards, sugar cane, improved guinea grass, pangola grass, faragua grass and natural grass pastures.

Claimant caused to be constructed on his ranch a large 16-room residence, Spanish in style, a number of tenant houses used by his lessees, barns for equipment and barns for storage. In addition, "Las Ciegas"

contained livestock, including horses, cattle and fowl; farm machinery and equipment, personal effects, household furnishings and miscellaneous items of property. Claimant also caused to be constructed on his ranch 21 man-made lakes which he stocked with fish.

The record establishes and the Commission finds that on October 3, 1963, the Cuban Government confiscated "Las Ciegas" and all the property situated thereon, as a result of which claimant sustained a loss within the meaning of Title V of the Act.

Claimant, who spent many years of his life on his farm and was fully familiar with values of land and related personalty, has computed the largest portion of his claim, the 2,897 acres of land, as follows:

<u>Description</u>	<u>Acreage</u>	<u>Amount</u>
Orange groves	111	\$ 460,650.00
Mahogany timber	81	160,000.00
Hardwood timber	192	211,200.00
Spanish cedar timber	26	32,240.00
21 man-made lakes	105	84,000.00
Fruit orchards	58	34,800.00
Sugar cane	49	73,500.00
Pangola pastures	1,299	489,723.00
Guinea grass pastures	135	42,525.00
Faragua grass pastures	217	62,279.00
Natural grass pastures	<u>622</u>	<u>124,634.00</u>
	2,895	<u><u>\$1,775,551.00</u></u>

Claimant indicated that he had omitted a two-acre yard, which was considered appurtenant to the residence.

The evidence includes photographs of various areas of the ranch taken between 1914 and 1959. These photographs show the several buildings and the Spanish type residence, the land, the lakes, tractors, machinery, forests, a cable bridge, rolling stock, fields, flower gardens, the various pastures, sugar cane, palm trees and citrus groves, etc., situated on the property, and indicating how much improvement was made over the years. The asserted values are also supported by affidavits from persons who were familiar with the farm and from a banker who made a partial evaluation of the farm in 1959.

Based upon all the evidence of record, the Commission finds that the value of claimant's 2,895 acres of land was \$1,775,551.00 on the date of loss.

The claim for buildings was computed as follows:

Spanish style house and two-acre yard	\$51,150.00
7 tenant houses	3,500.00
Equipment barn	4,000.00
2 storage barns	<u>800.00</u>
	\$59,450.00

The record shows that the residence had a tile roof, and was made of Spanish cedar and mahogany grown on the ranch. It contained 16 rooms, including 6 bedrooms and 3 bathrooms, and was situated on a two-acre plot of ground. The values of the residence and the other structures are supported by affidavits from persons familiar with values of property in Camaguey, Cuba. On the basis of the foregoing evidence, the Commission finds that the aggregate value of the buildings on the ranch was \$59,450.00 on the date of loss.

Claim was also made for livestock in the amount of \$53,930.00, consisting of 202 milk cows, 142 calves, 61 heifers, 27 male yearlings, 26 heifer yearlings, 8 bulls, 10 horses, 2 mules and 350 fowl. In addition, other items of property claimed included \$17,992.00 for tractors, plows, saws, drills and sundry other items of farm machinery and equipment; \$5,300.00 for certain personal belongings, including an automobile, guns, saddles, clothing, jewelry, silver and china; \$11,300.00 for household belongings, including furniture, washing machines, stoves, radio, record player, electric power unit, typewriter, refrigerator and other kitchen equipment; \$4,850.00 for miscellaneous supplies; and \$33,800.00 for cash on hand obtained from the sale of cattle, which claimant was unable to remove when his property was taken. It appears that he was placed under arrest in his own house and subsequently forced to "sign over" his ranch to the National Agrarian Reform Institute (INRA), a governmental agency.

Based upon the entire record, including affidavits from individuals with personal knowledge of the facts, the Commission finds that the asserted values of these items of property are fair and reasonable, and concludes that on the date of loss the livestock, machinery and equipment, personal belongings, household belongings, miscellaneous supplies and cash on hand, all of which was taken by Cuba, had the values of \$53,930.00, \$17,992.00, \$5,300.00, \$11,300.00, \$4,850.00, and \$33,800.00, respectively.

Claim was also made for accounts receivable, including \$5,945.00 for cattle and lumber sold to friends and neighbors, \$400.00 for cash loans to neighbors, and \$3,500.00 for debts from employees, aggregating the amount of \$9,845.00. Claimant states that due to the economic conditions brought on by the Castro regime his friends and neighbors were unable to pay their debts to him.

The Commission finds the evidence insufficient to warrant the conclusion that this portion of the claim represents property taken by the Government of Cuba within the meaning of Title V of the Act. Accordingly, this portion of the claim is denied.

Claimant's request of December 29, 1967, through counsel, to withdraw the portions of his claim for loss of income in the amount of \$30,000.00, and mental anguish in the amount of \$50,000.00, is hereby granted.

The remaining portion of the claim is for debts owed by the Cuban Government for timber, cattle and lumber in the amount of \$29,750.00, and \$500.00 for a chattel mortgage on a truck owned by a Cuban customer of claimant, which truck was taken by Cuba. In the absence of evidence to the contrary, the Commission finds that claimant sustained a loss of the debt due from Cuba and the chattel mortgage on October 3, 1963 when claimant's ranch was taken and he was compelled to sign over his property to

the Cuban Government. The Commission further finds that the aggregate amount of these items of property on the date of loss was \$30,250.00.

The Commission, therefore, concludes that claimant sustained the following losses within the meaning of Title V of the Act:

<u>Item of Property</u>	<u>Amount</u>
Land	\$1,775,551.00
Buildings	59,450.00
Livestock	53,930.00
Machinery & equipment	17,992.00
Personal belongings	5,300.00
Household belongings	11,300.00
Miscellaneous supplies	4,850.00
Cash on hand	33,800.00
Debts	<u>30,250.00</u>
Total	<u>\$1,992,423.00</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.

CERTIFICATION OF LOSS

The Commission certifies that ANTHONY M. RUTZ 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 Million Nine Hundred Ninety-two Thousand Four Hundred Twenty-three Dollars (\$1,992,423.00) with interest thereon at 6% per annum from October 3, 1963 to the date of settlement.

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

JUL 9 1969

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Goldberger
Sidney Goldberger, 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].)