

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

IN THE MATTER OF THE CLAIM OF

ALBERT SANCHEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0402

Decision No. CU

2854

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 \$65,400.00 was presented by ALBERT SANCHEZ and is based upon the asserted loss of unimproved and improved realty and personalty situated in Cuba. Claimant has been a national of the United States since his naturalization in 1957.

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.

Claimant asserts that he purchased a business, home and parking lot in the District of Guanabacoa, Cuba. He further states that he built 44 cabanas and improved the parking lot. Claimant assigns a value of \$65,400.00 to the property, and states that he purchased the property in 1960 and 1961.

The record contains three bills of sale for the following properties:

Club Tamanaco 484 Street No. 1A - 1S	6,000 pesos
Lot of land Reparto Bello, Guanabacoa	1,200 pesos
House and lot- 8 blocks 11A Reparto Bello, Guanabacoa	5,000 pesos

The record also contains three affidavits by persons with personal knowledge of the facts which tend to reflect that claimant paid the amounts set forth above and that in addition he made improvements for a parking lot to the extent of expending \$3,500.00 and built 44 cabanas at a cost of \$10,000.00.

Upon due consideration of the evidence of record, and in the absence of evidence to the contrary, the Commission holds that claimant owned the property set forth above.

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. Consequently, the Commission finds, in the absence of additional or contrary evidence, that claimant's realty was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Commission has considered all the evidence of record and finds that the fair value of the aforesaid property was 25,700 pesos. The Commission has found in previous claims that the Cuban Peso was equal in value to the United States Dollar on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].) The Commission therefore concludes that claimant's land and appurtenances had a value of \$25,700.00 on the date of loss.

Accordingly, it is concluded that claimant suffered a loss on December 6, 1961 as a result of the actions of the Government of Cuba, within the meaning of Title V of the Act, in the amount of \$25,700.00.

The remainder of this claim is asserted for various items of personalty such as a record player, refrigerator and furniture.

The record contains the bill of sale for the "Club Tamanaco" which states, inter alia, that all "furnitures, fixtures, tables and record player" and "merchandise in stock" are sold as part of the transaction for the aforementioned sum of 6,000 pesos.

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) (Supp. 1967).)

In view of the foregoing, the Commission finds that claimant owned all fixtures and furnishings of the "Club Tamanaco" but that said property has already been included in the sale price of 6,000 pesos since claimant purchased the business on April 8, 1960.

Furthermore, the Commission finds that claimant has failed to establish his ownership of rights and interests in any other property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny such portion of the claim and it is hereby denied.

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).

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 on \$25,700.00 from December 6, 1961 to the date on which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ALBERT SANCHEZ 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 Twenty-Five Thousand Seven Hundred Dollars (\$25,700.00) with interest thereon at the rate of 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 21 1968

Richard V. B. Sutton

RICHARD V. B. SUTTON, CHAIRMAN

Theodore Jaffe

THEODORE JAFFE, COMMISSIONER

Sidney J. Goldberg

SIDNEY J. GOLDBERG, 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).)