

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

IN THE MATTER OF THE CLAIM OF

ANN J. SCHUSTER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0847

Decision No. CU 2978

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 \$25,000.00, was presented by ANN J. SCHUSTER and is based upon the asserted loss of an interest in real property situated in Cuba. Claimant has been a national of the United States since her 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.

Claimant asserts an interest in land and a two-story stucco building located at Pajarito No. 365, Havana, Cuba. Claimant states that she and a sister, since deceased, each inherited a one-fourth interest in the claimed property, and that a third sister, also deceased, inherited the remaining one-half interest. It is stated that the property was owned by claimant's mother, Tillie Stromberg Jaffe, who died testate prior to January 11, 1952. It appears from the record that the subject property was urban commercial property, which was rented out for income purposes.

The record contains a copy of the Last Will and Testament of Tillie Stromberg Jaffe, which was admitted to probate on January 11, 1952. The will devises a portion of the rental proceeds of the decedent's real property in Havana to claimant, and provides that if claimant and her sisters, as devisees, decide to sell the Havana realty, then claimant shall receive one-fourth of the proceeds of such sale.

Information made available to the Commission establishes that on February 21, 1952, claimant acquired a one-fourth interest in the property known as Pajarito No. 365. This acquisition was effected under Document No. 376 of that date, and is recorded in Volume 22, Folio 8, Inscription 22 of Property Register No. 6, Havana.

On the basis of the evidence of record, and in the absence of contrary evidence, the Commission finds that claimant owned a one-fourth interest in the land and building located at Pajarito No. 365, Havana, Cuba.

On October 14, 1960, the Government of Cuba published the Urban Reform Law in the Official Gazette, Special Edition. Under this law the renting of urban properties, and all other transactions or contracts involving the total or partial use of urban properties was outlawed. The Commission finds, therefore, that claimant's one-fourth interest in the property at Pajarito No. 365 was taken on October 14, 1960, pursuant to the Urban Reform Law. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

Claimant has asserted that the value of the claimed property was approximately \$100,000.00. The basis of this valuation is an offer assertedly received by claimant's mother for the property. However, no evidence of the offer, or any other evidence relating to the value of the property, has been submitted by claimant.

Evidence made available to the Commission through the Department of State indicates that the net value of the property was \$23,500.00. In addition, evidence before the Commission in other claims based upon property similar in location and construction indicates that the amount of \$23,500.00 is a reasonable value for the property claimed herein.

The Commission finds, therefore, that the property at Pajarito No. 365 had a value of \$23,500.00 on October 14, 1960, and that claimant's one-fourth interest in the property amounted to \$5,875.00 on the date of loss.

The Commission concludes that claimant 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, on October 14, 1960 in the amount of \$5,875.00.

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.)

The Commission therefore concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 14, 1960 to the date on which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ANN J. SCHUSTER 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 Thousand Eight Hundred Seventy-Five Dollars (\$5,875.00), with interest at the rate of 6% per annum from October 14, 1960 to the date of settlement.

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

SEP 4 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, 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).)

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