

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

IN THE MATTER OF THE CLAIM OF

BERT A. TURNER

Claim No. CU - 0853

Decision No. CU - 1984

Under the International Claims Settlement
Act of 1949, as amended

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 BERT A. TURNER, in the amount of \$1,805.08, based upon the loss of certain unimproved real property located in Cuba, and the loss of a stock interest in Manati Sugar Company, a New York Corporation. Claimant has been a national of the United States since the naturalization of his father on October 3, 1912.

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 evidence of record in this claim includes a contract for the purchase of the real property which is a part of this claim, as well as documents relating to fees attendant to said purchase.

Based upon all of the evidence of record, including information available to the Commission, the Commission finds that claimant was the owner of certain unimproved real property, to wit: a plot of land described as the Western half of the Western half of Lot 7, Section 11 of the Hacienda Santa Fe, located on the Isle of Pines, Cuba, and consisting of 10 acres.

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, stock, bonds and securities of persons who had left the country. As the record shows, claimant resided in the United States at that time. The Commission finds, in the absence of evidence to the contrary, that the subject unimproved real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. ✓

Claimant asserts that the subject real property had a value of \$710.00 at the time of loss.

The record establishes that claimant, BERT A. TURNER, purchased subject unimproved realty on September 30, 1915, for the purchase price of \$650.00, plus attendant fees in the amount of \$60.00. Based upon the entire record, including information available to the Commission as to the value of similar property on the Isle of Pines, the Commission finds that \$710.00 is a reasonable value for this property at the time of loss, and concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act.

A further portion of this claim is based upon 100 shares of stock issued by Manati Sugar Company, a New York corporation.

Section 502(1)(B) of the Act defines the term "National of the United States" as a corporation or other legal entity which is organized under the laws of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record in the Claim of Manati Sugar Company, on file with the Commission, (Claim No. CU-2525), establishes that the claimant corporation qualifies as a United States national within the meaning of Section 502(1)(B) of the Act.

Section 505(a) of the Act provides that

A claim under section 503(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered.

The Commission concludes that since this portion of the claim is based upon a stock interest in a corporation which qualifies as a United States national, the Commission is precluded, under Section 505(a) of the Act, from considering this claim. Accordingly, it is hereby denied. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014.) The Commission deems it unnecessary to make specific findings with respect to other elements of this portion of the claim.

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 from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that BERT A. TURNER 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 Hundred Ten Dollars (\$710.00) 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

26 JUN 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Stanley Freidberg

Stanley Freidberg, 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).)