

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

IN THE MATTER OF THE CLAIM OF

HELEN C. SABIN
RALPH I. SABIN, SR.
RALPH I. SABIN, JR.

Claim No. CU-0960
Claim No. CU-0961
Claim No. CU-0964
Claim No. CU-1468

Decision No. CU-5534

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on July 29, 1970;
no oral hearing requested.

Hearing on the record held on January 6, 1971

FINAL DECISION

The Commission issued its Proposed Decision in these claims on July 29, 1970, denying portions of the claims which were asserted for loss of oceanography equipment and the contents of parcel post shipments, and finding that claimants HELEN C. SABIN and RALPH I. SABIN, SR., owned a lot, apartment and certain shop inventories and other personalty in Havana, Cuba, with a total value of \$57,840.00.

The Commission found, in the Proposed Decision, that a tract of land in Maria del Carmen, near Havana, had a value of \$8,000.00; and that the apartment known as #632 Riomar, Havana, had a value of \$11,340.00. Further, the Commission determined that the business property, including stamp albums, buttons, jewelry and other items of merchandise, had a total value of \$22,900.00, and the household furnishings and personal effects had a value of \$15,600.00.

Claimants filed objections to the Proposed Decision, objecting specifically to the valuation of the lot in Maria del Carmen, to the denial of the claims for loss of oceanography equipment and parcel post packages, and to

the valuation of the personal property. Claimants submitted additional correspondence and other evidence concerning the ownership and value of the properties, subject of the claims, and indicated that certain items were omitted in filing their claims in the first instance.

Based upon the evidence submitted by claimants and a review of the entire record, the Commission finds that the lot in Maria del Carmen had a value of \$15,000.00 at the time of loss; that the personal property had an additional value of \$2,500.00, including those items previously omitted by the claimants. Accordingly, the Commission finds that the real property had a value of \$26,340.00 at the time of loss; that the personal property had a total value of \$41,000.00 at that time of loss; and that these properties, with a total value of \$67,340.00, were community property and claimants HELEN C. SABIN and RALPH I. SABIN, SR. are entitled to certifications of loss in sums commensurate with their respective one-half interests within the meaning of Title V of the Act.

The Certifications of Loss, as restated below, will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATIONS OF LOSS

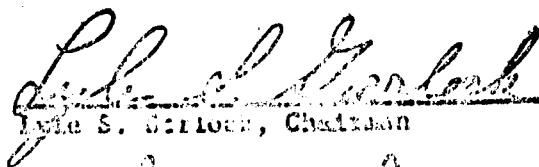
The Commission certifies that HELEN C. SABIN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-three Thousand Six Hundred Seventy Dollars (\$33,670.00) with interest thereon at 6% per annum from December 15, 1966 to the date of settlement; and

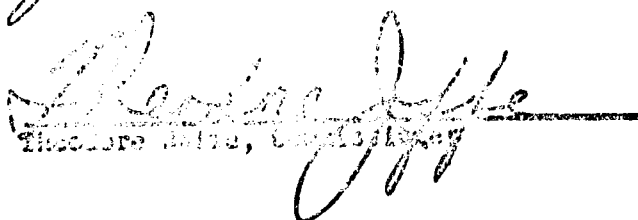
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The Commission certifies that RALPH I. SABIN, SR. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-three Thousand Six Hundred Seventy Dollars (\$33,670.00) with interest thereon at 6% per annum from December 15, 1966 to the date of settlement.

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

JAN 13 1971


Lytle S. Garrison, Chairman


Theodore White, Vice Chairman

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IN THE MATTER OF THE CLAIM OF

HELEN C. SABIN
RALPH I. SABIN, Sr.
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Claim No. CU-0960
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Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by the aforesaid claimants, in the total amended amount of \$150,860.00, based upon the asserted ownership and loss of real and personal property in Cuba. Claimants have been nationals of the United States at all times pertinent to these claims.

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.

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) (1969).)

Claimants describe their losses as follows:

Land with trees and improvements	\$ 26,900.00
Oceanographic and scientific equipment	22,000.00
Apartment #632, Riomar, Havana	11,760.00
Motion picture equipment and reels	12,000.00
Business, household and personal effects	72,500.00
One-half interest in yacht	4,000.00
Loss of parcel post shipments	<u>1,700.00</u>
TOTAL	\$150,860.00

Claimants have submitted a detailed listing of the property included in their claims, which consists primarily of a "Declaration of Wealth", which claimants HELEN C. SABIN and RALPH I. SABIN, Sr., prepared and executed in Havana, Cuba, on January 20, 1966, prior to their departure from that country. In addition, claimants have submitted Contract 466, "Segregation, Sale and Mortgage", executed in Havana on March 6, 1950; and Contract 998, "Cancellation of Mortgage Bond", also executed in Havana on May 18, 1959. The record also includes receipts for payments on the apartment in Havana, listed above, affidavits and other evidence.

REAL PROPERTY

Claimants have asserted that certain real properties were owned separately, but the Commission finds that the evidence of record is insufficient to establish such separate ownership. Pursuant to the Community Property laws

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of Cuba, the Commission finds on the basis of evidence of record that claimants HELEN C. SABIN and RALPH I. SABIN, Sr., as husband and wife, owned respective one-half interests in (1) certain unimproved land with fruit trees and property markers, comprising an area of 2557.80 square meters, identified as lot #14 at Maria del Carmen, at or near Havana, Cuba, which was purchased in 1950 for \$7,114.88; and (2) an apartment at 40 Miramar, known as #632 Rio-mar, Havana, Cuba, which was purchased on or about March 3, 1960, with payments at \$140.00 per month, which continued until December 3, 1966, for a total payment by claimants of \$11,340.00.

The claimants left Cuba on or about December 15, 1966. Previously, on December 6, 1961, the Cuban Government published its Law 989 which provided for confiscation of all assets, real and personal, of persons who left the country.

The Commission finds that claimants' unimproved real property with markers and fruit trees, as well as their interest in the aforesaid apartment, were taken by the Government of Cuba on December 15, 1966, pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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.

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The claimants have submitted no evidence pertaining to the value of these properties other than the purchase agreements, receipts and other indicia of ownership. The Commission finds that the basis of valuation most appropriate to the property and equitable to the claimants in these circumstances is based upon the sums expended by claimants in acquiring these real property interests and evidence available to the Commission concerning values of similar properties in Havana, Cuba. Thus, the Commission finds that at the time of loss the unimproved lot with fruit trees and markers had a value of \$8,000.00 and the apartment identified as No. 632 Riomar had a value of \$11,340.00, or, a total value of \$19,340.00 for both properties.

PERSONAL PROPERTY

The evidence of record, including the "Declaration of Wealth", itemized lists of property, affidavits and similar evidence discloses that claimants HELEN C. SABIN and RALPH I. SABIN, Sr., owned inventories or stock in trade as well as other property located at 459 Muralla, Havana, which was utilized by them in a business enterprise; and that they owned household and personal effects located in Havana, Cuba. The Commission finds that these properties were also taken by the Government of Cuba on December 15, 1966, pursuant to Law 989, supra.

The claimants have not submitted evidence to establish when the various items of personal property were purchased, or, evidence concerning the value of such property, either at the time of purchase or at the time of loss. The claimants have indicated in their itemized lists and affidavits certain valuations which were apparently those asserted by them at the time of loss. Thus, the Commission must have recourse to evidence available to it concerning similar property in Havana.

On the basis of the entire record, the Commission finds that at the time of loss the business property, including stamp albums, buttons, jewelry and other items of merchandise, had a total value of \$22,900.00; and the household and personal effects, including an interest in a yacht, had a total value of \$15,600.00.

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Accordingly, the Commission concludes that claimants HELEN C. SABIN and RALPH I. SABIN, Sr., suffered losses in the aggregate amount of \$57,840.00 within the meaning of Title V of the Act, as the result of the taking of their real and personal property by the Government of Cuba on December 15, 1966, or \$28,920.00 each.

OTHER PERSONAL PROPERTY

Claim has been asserted by RALPH I. SABIN, Jr., for loss of oceanographic and scientific equipment; and the claim of RALPH I. SABIN, Sr., includes the loss of 34 parcel post packages sent by claimant from Havana to Miami, Florida in 1965-66, which were assertedly taken by the Government of Cuba.

In Commission letters to claimants from 1967 to 1970, including letters of October 17, 1967, September 20, 1968, December 3, 1969 and February 16-17, 1970, claimants were advised as to the type of evidence proper for submission under the Act to establish these portions of the claims.

Further, by Commission letters of February 16-17, 1970, claimants were invited to submit any evidence available to them within 30 days from those dates, and they were informed that, absent such evidence, it might become necessary to determine these portions of the claims on the basis of the existing record. No evidence has since been submitted.

The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. Thus, the Commission finds that claimants herein have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated, or otherwise taken by the Government of Cuba. Accordingly, the Commission is constrained to deny these portions of the instant claims and such claims are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of these portions of the claims.

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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 claims it is so ordered.

CERTIFICATIONS OF LOSS


The Commission certifies that HELEN C. SABIN 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-eight Thousand Nine Hundred Twenty Dollars (\$28,920.00) with interest at 6% per annum from December 15, 1966 to the date of settlement; and

The Commission certifies that RALPH I. SABIN, Sr. 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-eight Thousand Nine Hundred Twenty Dollars (\$28,920.00) with interest at 6% per annum from December 15, 1966 to the date of settlement.

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

JUL 29 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney 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).)

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