

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

IN THE MATTER OF THE CLAIM OF

STEWART H. ADAMS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1258

Decision No. CU 1824

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,043.45, was presented by STEWART H. ADAMS, and is based upon the asserted loss of household and personal effects located in Havana, Cuba. Claimant herein, STEWART H. ADAMS, has been a national of the United States since his 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 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 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

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 herein includes a report from the American Embassy of Havana, Cuba, dated August 15, 1960, which discloses that claimant, STEWART H. ADAMS, submitted to the Embassy an extensive list of personal property which he owned and which was then situated at his residence in Biltmore, Marianao, Havana, Cuba. Further, claimant has submitted data concerning certain personal property on the aforesaid list which was shipped to the United States in 1960; statements submitted to the Internal Revenue Service of the United States in connection with his loss of certain property, assertedly arising in 1961; and information concerning his claim to Lloyds of London regarding certain personal property stolen in Cuba but later seized by the Government of Cuba. Based upon the entire record, the Commission finds that claimant was the owner of the household and personal effects, as itemized in his claim, and which were located in Havana, Cuba.

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. As the record shows, in December 1961, claimant resided in the United States. The Commission finds, in the absence of evidence to the contrary, that the personal property, subject of this claim, 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 FGSC 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.

In the instant claim, the claimant has not submitted data concerning dates of purchase or purchase price paid at that time for the various items included in this claim. However, claimant has submitted a description of the items and the claimed values at time of the loss, and has indicated that such evaluations include depreciation. The Commission has utilized information available to it concerning the valuation of similar articles of personal property located in Cuba, and finds that the evaluation given by claimant is comparable to the value of other articles similarly situated and taken by the Government of Cuba. The Commission concludes that claimant, STEWART H. ADAMS, sustained a loss in the total amount of \$1,043.45 within the meaning of Title V of the Act, as a result of the confiscation of his personal property by the Government of Cuba on December 6, 1961.

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 settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that STEWART H. ADAMS 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 Thousand Forty-Three Dollars and Forty-Five Cents (\$1,043.45) 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

8 MAY 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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).)