

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

IN THE MATTER OF THE CLAIM OF

JACK BLAKE QUISENBERRY  
and  
DOROTHY EHRET QUISENBERRY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1320

Decision No. CU 3831

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 \$106,021.75, was presented by JACK BLAKE QUISENBERRY and DOROTHY EHRET QUISENBERRY, based upon the asserted losses of stock interests in two Cuban corporations, a debt due from one of the Cuban corporations, and certain tangible personal property in Cuba. Claimants, husband and wife, have been nationals of the United States since 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 of 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.

#### Stock Interests

Claimants have stated that they owned all of the outstanding capital stock of two Cuban corporations, Cia. de Ensamblaje de Aire Acondicionado, S.A. (Air Conditioning Assembling Corporation) and Duchas Acuotermicas, S.A. (Thermo-Jet Corporation), hereafter called Air and Jet, respectively. They have asserted losses of \$45,990.00 on account of Air and \$2,166.67 on account of Jet, or the aggregate amount of \$48,156.67.

Although claimants have not been able to furnish either the stock certificates or the corporate records, due to the fact such were left in Cuba and were seized by the Cuban authorities, nevertheless, the evidence of record does disclose that claimant JACK BLAKE QUISENBERRY was an officer of Air and that the loan payable to him was about 80% of its assets; further corporate evidence is that Mr. QUISENBERRY was absent from Cuba when the companies were confiscated.

Claimants have also submitted copies of balance sheets for Air and Jet as of September 30, 1960. It further appears from other evidence of record that Air and Jet were intervened by an official of the Cuban Government by Resolution No. 21614 of September 29, 1960. Based on the entire record the Commission finds that claimants were the owners of the outstanding stock of Air and Jet.

The balance sheet for Air shows total assets in the amount of \$42,698.22 and total liabilities in the amount of \$47,541.54, or a deficit of \$4,843.32. Accordingly, the Commission finds it is not established that Air had any net

worth on September 29, 1960, the date of loss, or that the stock thereof had any value at that time. The Commission, therefore, concludes that claimants sustained no loss within the meaning of Title V of the Act based upon their stock interests in Air and that portion of the claim is therefore denied.

The balance sheet for Jet shows total assets in the amount of \$7,973.65 and total liabilities in the amount of \$7,037.38, or a net worth of \$936.27. Therefore, the Commission finds that claimants suffered a loss of \$936.27 as a result of the confiscation of their interest in Jet.

#### Debt

Claimants state that Air was indebted to them in the amount of \$34,616.63. The Commission has held that debts of nationalized Cuban corporations are within the purview of Title V of the Act. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].) The Commission has adhered to this ruling despite the fact that the debtor Cuban corporation was insolvent, as in this case. (See Claim of The Goodyear Tire & Rubber Company, Claim No. CU-0887; Claim of Honeywell, Inc., Claim No. CU-2678.)

The balance sheet for Air discloses that Mr. Quisenberry was indebted to that Cuban corporation in the amount of \$811.29 and was a creditor of that Cuban entity in the amount of \$34,616.63, or a creditor in the net amount of \$33,805.34. Pursuant to the community property laws of Cuba, this asset was jointly owned by claimants. The Commission therefore finds that claimants sustained a loss in the amount of \$33,805.34 within the meaning of Title V of the Act on account of a debt owed them by Air, and that this loss occurred on September 29, 1960, the date Air was intervened by the Government of Cuba. (See Claim of Kramer, Marx, Greenlee and Backus, supra; Claim of The Goodyear Tire & Rubber Company, supra; and Claim of Honeywell, Inc., supra.)

Personal Property

The evidence establishes and the Commission finds that claimants occupied a rented house in Verafero, Cuba, which they had furnished completely, and that they jointly owned the contents thereof, consisting of home furnishings.

Based upon the entire record, including an affidavit from a Cuban lawyer who had personal knowledge of the facts, the Commission finds that the Government of Cuba took claimants' personal property on March 31, 1961. The Commission, therefore, concludes that claimants thereby sustained a loss within the meaning of Title V of the Act.

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". The Commission has concluded that this phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property and that it is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider; i.e., fair market value, book value, going concern value, or cost of replacement.

The record includes statements from claimants, supported by affidavits from individuals who had visited claimants' home in Cuba and had personal knowledge of the furniture and furnishings contained therein. One of the affiants, who had known claimants from 1955 to 1960 and had visited their home in Cuba on several occasions, described the home as being in "the

\$150,000 class" and that it "was expensively and tastefully furnished and in keeping with a home of that value."

Claimants have submitted a detailed list of all the items of personal property contained in their rented home. An affidavit from the owner of the house indicates that the annual rental was \$4,800.00, commencing May 1, 1958, and that claimants had been granted the option to purchase the real property. Another affidavit from an interior decorator with twenty years of experience sets forth that the affiant had maintained a home in Veradero, Cuba from 1956 to July 1961, and that she had become well acquainted with the contents of the home occupied by claimants. This affiant further stated that she had reviewed the lost of furnishings prepared by claimants and was of the opinion that the amount of \$23,248.45, asserted by claimants, represented the fair and reasonable value thereof on March 31, 1961, the date of loss.

Upon consideration of all the evidence of record, the Commission finds that the valuation most appropriate to the said personal property and equitable to the claimants is that set forth in the detailed list of the property, which valuation is supported by the opinion of an expert interior decorator. Accordingly, the Commission finds that the value of claimants' personal property on March 31, 1961, the date of loss was \$23,248.45.

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 case it is so ordered as follows:

<u>FROM</u>	<u>ITEM</u>	<u>ON</u>
September 29, 1960	Net worth of Jet	\$ 936.27
September 29, 1960	Debt due from Air	33,805.34
March 31, 1961	Home furnishings	<u>23,248.45</u>
		<u>\$57,990.06</u>

CERTIFICATION OF LOSS

The Commission certifies that JACK BLAKE QUISENBERRY and DOROTHY EHRET QUISENBERRY 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 Fifty-seven Thousand Nine Hundred Ninety Dollars and Six cents (\$57,990.06) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

**AUG 27 1969**

*Leonard v. B. Sutton*  
Leonard v. B. Sutton, CHAIRMAN

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*Judith Jessberg*  
Judith Jessberg, 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).)