

IN THE MATTER OF THE CLAIM OF

KING RANCH, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1507

Decision No. CU **5751**

Counsel for claimant:

Leroy G. Denman, Jr., Esquire

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 \$3,131,638.62, was presented by KING RANCH, INC. based upon the asserted loss of cattle in Cuba and a stock interest in a Cuban enterprise.

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 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, or of any State, 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.

An officer of the claimant corporation has certified that at all times since the firm was incorporated in 1934 in Texas, all of its outstanding capital stock has been owned by nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claim is asserted herein for \$2,831,638.62 for claimant's fifty percent ownership interest in Compania Ganadera Becerra, S.A. and \$300,000.00 for claimant's separately owned cattle located on the Compania Ganadera Becerra property in Cuba. The record shows and the Commission finds that claimant and the Manati Sugar Company each owned a fifty percent interest in Compania Ganadera Becerra, S.A. which was nationalized by the Government of Cuba on November 1, 1960. At the time of nationalization claimant owned 178 head of cattle which were on the land belonging to Compania Ganadera Becerra, S.A. pursuant to an agreement between the parties made in 1955. Since Compania Ganadera Becerra, S.A. was a Cuban enterprise and not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, it does not qualify as a corporate "national of the United States" within the meaning of Section 502(1)(B) of the Act. In this type of situation, it has been held that an American stockholder is entitled to file a claim for his indirect ownership interest. (See Claim of Avon Products, Inc. Claim No. CU-0772, Amended Proposed Decision, 1967 FCSC Ann. Rep. 35.)

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 the "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.

Compania Ganadera Becerra, S. A.

The values asserted for the assets of Compania Ganadera Becerra, S.A. are

Land and buildings	\$4,298,879.79
Cattle and other livestock	951,786.47
Equipment, furniture & fixtures, etc.	310,667.00
Cash and other assets in excess of liabilities	<u>101,943.98</u>
Total	<u>\$5,663,277.24</u>

The record includes copies of audited balance sheets for Compania Ganadera Becerra, S.A. for the years 1957, 1958 and 1959, a profit and loss statement for the years 1956, 1957, 1958 and 1959, a copy of the claim filed by the Cuban company with the Department of State in 1961, and statements of company officials concerning the value of its property, and the status of its current assets and current liabilities as of June 30, 1960.

On the basis of all the evidence of record and information available to the Commission concerning the value of similar property, the Commission finds that the total value of the assets of Compania Ganadera Becerra, S.A. on November 1, 1960 was \$5,687,928.42 and the total liabilities were \$2,309,849.69 making a net worth to be divided between the two stockholders of \$3,378,078.73. Included in the liabilities is the amount of \$1,005,000.00 with interest of \$109,152.91 owed to Manati Sugar Company and \$1,060,000.00 with interest of \$111,045.60 owed to the claimant herein. The Commission concludes that by reason of its ownership interest in Compania Ganadera Becerra, S.A., claimant suffered a loss in the amount of \$1,689,039.37 on November 1, 1960 when the Cuban corporation was nationalized by the Government of Cuba, within the meaning of Title V of the Act.

Claimant suffered an additional loss for debts due and owing from the Cuban company in the amount of \$1,171,045.60 which represents debts owed claimant by a nationalized enterprise and is an additional loss within the meaning of Title V of the Act, making a total loss for claimant of \$2,860,084.97.

Cattle

Claimant asserts a further loss in the amount of \$300,000.00 for the taking of 178 head of purebred Santa Gertrudis cattle. The record shows and the Commission finds that claimant owned a separate herd of cattle totalling 178 head which was confiscated by the Government of Cuba on November 1, 1960 at the same time as the confiscation of Compania Ganadera Becerra, S.A. By agreement entered into in 1955, claimant delivered 52 head of its own purebred Santa Gertrudis cattle to be cared for by the Cuban company with certain benefits accruing to each from the production of the herd. By November 1, 1960, the herd had increased to 178.

Claimant states that it is difficult to assign a specific monetary value to the herd because the KING RANCH, INC. had never sold any purebred female Santa Gertrudis cattle for breeding. The breed was developed by claimant in Texas for a hot environment and claimant holds its exclusive ownership of the foundation herd to be of substantial value with its loss resulting from the Cuban confiscation amounting to a sum of not less than \$300,000.00. The purebred cattle lost were as follows:

6 full grown breeding bulls
93 full grown breeding cows
44 male yearlings
35 female yearlings
178

Based upon information available to the Commission concerning the value of Santa Gertrudis cattle in the years 1959 and 1960, the Commission finds that \$356,000.00 is a fair and reasonable value for a herd of the above composition. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$356,000.00 for the confiscation of its cattle by the Government of Cuba on November 1, 1960 within the meaning of Title V of the Act, and a total loss of \$3,216,084.97 for the confiscation of all its property in Cuba.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

The Commission has decided that in certifications of loss 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).

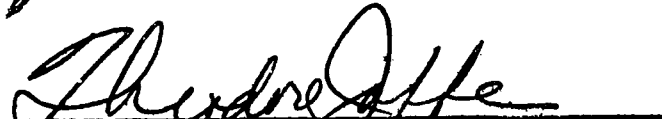
CERTIFICATION OF LOSS

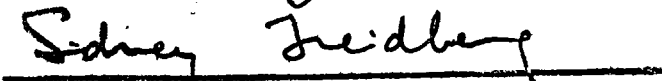
The Commission certifies that KING RANCH, INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Million Two Hundred Sixteen Thousand Eighty-four Dollars and Ninety-seven Cents (\$3,216,084.97) with interest thereon at 6% per annum from November 1, 1960 to the date of settlement.

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

AUG 19 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).)