

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

IN THE MATTER OF THE CLAIM OF

LEOPOLD BADIA

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2609

Decision No. CU - 3977

Counsel for claimant:

Edmund C. Burke, Esq.

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 \$82,426.98, was presented by LEOPOLD BADIA, also known as LEOPOLDO BADIA Y GALVEZ, and is based upon the asserted loss of rights and interests in real property in Havana, Cuba. Claimant has been a national of the United States since his naturalization on April 23, 1928.

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.

Claim is made for interests in certain rental properties, a mortgage interest on business property, a crypt in a cemetery and an equity in a house, all in Havana, Cuba. The claimant has submitted his inventory and description of such property; a copy of a report of his agent in Havana who previously managed the rental properties; and a final accounting in connection with probate proceedings whereby the estate of claimant's late mother, Maria Luisa Galvez y Pinal, who died in 1956, was distributed to claimant, her sole heir.

Based upon the evidence of record, the Commission finds that claimant herein owned the following real properties, or interests therein, located at Havana, Cuba:

1. Building and lot at #64 Plasencia Street, Marianao, Havana, including a 2-floor brick building, with living quarters on both floors and a terrace roof;
2. Building and lot at #718 San Carlos Street, Marianao, Havana, including a three-floor building with six apartments;
3. A 2-floor building with four apartments, located at #257-259 14th Street, Havana, of the "El Carmelo" urban development projects; and
4. A mortgage interest in a house and land located at #381 Galzado de Jesus del Monte, Havana, Cuba.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under Article 2 of this law the renting of urban properties and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed. The law covered residential, commercial, industrial and business office properties (Article 15). Moreover, Article 30 provided for the cancellation of mortgages. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who did not have the status of legal residents were excluded from the rights and benefits conferred by this law.

Based on the foregoing and the evidence of record available to the Commission, the Commission finds that the said real properties in Havana, Cuba, and the described mortgage interest, were taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law, and that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

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 Commission has considered the above-mentioned report of distribution of the estate. This report, among other things, includes appraisal data on the properties and information with respect to the mortgage interest. Additionally, claimant submitted information to the United States Department of State as to the value of the subject Havana properties.

Based upon the entire record, as well as evidence available to the Commission concerning the value of similar properties located in Havana,

the Commission finds that the properties had the values shown below at the time of loss in 1960:

1. Plasencia Street	\$ 6,300.00
2. San Carlos Street	18,000.00
3. "El Carmelo" property	20,000.00
4. Mortgage interest in rental property	<u>10,000.00</u>

Total . . . . . \$54,300.00

Accordingly, the Commission concludes that claimant, LEOPOLD BADIA, suffered a loss in the amount of \$54,300 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on October 14, 1960.

With respect to the crypt in the Colon cemetery of Havana and an equity in a house on Block No. 9 "Alturas de Columbia", claimant has submitted no evidence to establish ownership, loss and value of such property interests. Accordingly, the Commission is constrained to deny these portions of the claim and they are hereby denied.

Claim has been made for loss of rental income, for the period from October 1, 1960, to March 31, 1967, from the rental properties in Havana, as listed above. The Commission finds, with respect to any rentals due in the period immediately prior to the date of taking of the properties, that it has not been established that any rent belonging to claimant was nationalized or otherwise taken by the Government of Cuba. The claim for loss of rent for the period subsequent to the date when the properties were taken must be denied, inasmuch as the properties belonged to the State after the aforesaid date of taking, rather than to the claimant. Accordingly, this portion of the claim, based upon the loss of rentals, is hereby denied.

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.

CERTIFICATION OF LOSS

The Commission certifies that LEOPOLD BADIA 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-Four Thousand Three Hundred Dollars (\$54,300.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

**OCT 1 1969**

*Leonard v. B. Sutton*  
\_\_\_\_\_  
Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
\_\_\_\_\_  
Theodore Jaffe, Commissioner

*Sidney Freidberg*  
\_\_\_\_\_  
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).)