

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

IN THE MATTER OF THE CLAIM OF

PHILIP ROSENBERG

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2613

Decision No. CU 3825

Counsel for claimant:

Shapiro, Fried and Weil
By Herbert S. Shapiro, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by PHILIP ROSENBERG for \$79,130.00 based upon the asserted ownership and loss of personal property and the assets of a wholly-owned holding company. Claimant has been a national 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 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.

Claimant describes his loss as follows:

Personalty in a rented residence	\$28,230.00
Assets of Cia. Financiera Harr	\$50,900.00

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 such persons as this claimant who had left the country.

Based upon the entire record, including affidavits of claimant and others, including officers of a large Cuban company, stock certificates and deeds, the Commission finds that claimant owned certain personal property at Calle 22, #517 Miramar, and 698 shares of stock, the total issue, of Cia. Financiera Harr and that same 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 FCSC Semiann. Rep. [July-Dec. 1966].)

Further, on the basis of affidavits of record, the Commission finds that claimant's personal property in his residence was taken by agents of the Cuban Government on October 10, 1960. (See Claim of Jack Moss, Claim No. CU-0225, 25 FCSC Semiann. Rep. 52 [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 record includes, inter alia, in support of the claimed values, a detailed listing of the personal property as well as deeds for the purchase of two lots by claimant's holding company. Claimant has stated that the two lots had a value of \$80,000.00 on the date of loss, but has submitted no evidence to support his assertion in this respect. Accordingly, claim is being made for the cost of the lots in 1952. These lots represented the total property owned by the company, with the exception of \$500.00 cash, which claimant alleges was on deposit with a Cuban bank. The record, however, fails to disclose proof of the existence or loss of asserted improvements of a value of \$4,400.00 on the lots and the asserted bank account. It does indicate, though, that the company had no liabilities.

Based on the entire record, the Commission finds that the fair and reasonable value of claimant's personal property on the date of loss was \$28,230.00, and that his stock interest had a value of \$45,861.00. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$74,091.00 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba.

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>ON</u>
October 10, 1960	\$28,230.00
December 6, 1961	<u>45,861.00</u>
	\$74,091.00

CERTIFICATION OF LOSS

The Commission certifies that PHILIP ROSENBERG 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 Seventy-four Thousand Ninety-one Dollars (\$74,091.00) with interest at 6% per annum from the 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

Sidney Feidberg
Sidney Feidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

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).)