

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

IN THE MATTER OF THE CLAIM OF

LOUIS MARHOEFER
WILLIAM H. HILL

Claim No. CU -2972

Decision No. CU-4860

Under the International Claims Settlement
Act of 1949, as amended.

Appeal and objections from a Proposed Decision entered on May 20, 1970;
oral hearing requested.

Oral Hearing held on June 24, 1970.

FINAL DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by LOUIS MARHOEFER and WILLIAM H. HILL, in the amount of \$496,800.00, based upon the asserted loss of approximately 250 acres of land situated on the Isle of Pines, Cuba, agricultural and irrigation equipment, crates of fruit and a bank account. The claimants have been nationals of the United States since naturalization in 1929.

By Proposed Decision dated May 20, 1970, the Commission found that there were two tracts of land involved in this claim, including a tract known as "Banito", with timber and hot springs, and one known as "La Clarita" which was a fruit plantation; that the total acreage of both tracts of land was 215.851 acres and claimant WILLIAM H. HILL owned a 39.93% interest therein and claimant LOUIS MARHOEFER owned an interest of 22.83%, with the remainder being owned by James H.F. Veltman, not a claimant herein; and that based on computations of \$200.00 per acre for 215.851 acres, and \$30,000.00 for fruit trees, and, with agricultural and irrigation equipment, as well as a bank account, Certifications of Loss were made in the amounts of \$33,322.00

to WILLIAM H. HILL and \$19,088.30 to LOUIS MARHOEFER, within the meaning of Title V of the Act. The Commission determined that the portion of the claim for loss of 140,000 field crates of fruit was not supported by the evidence of record and this portion was denied for failure of proof.

Claimants filed objections to the Proposed Decision, objecting specifically to the extent of or the acreage found by the Commission for the two tracts of land, as well as the fractional ownership interests in and value of such land. Further, claimants objected to the valuation given by the Commission for the fruit trees and irrigation system and objected to the denial of the portion of the claim concerning the loss of field crates of fruit.

At an oral hearing held on June 24, 1970, the testimony of witnesses was presented with additional supporting evidence. Further, argument was made by claimants as to the extent of their ownership interests in the property, subject of the claim; and the value of such property at the time of loss.

Based on testimony of the witnesses and additional evidence submitted at the hearing, the Commission finds that the land in the "Banito" tract contained approximately 127.76 acres; that the fruit plantation had a total area of approximately 100 acres, known as "La Clarita"; and that claimants herein owned respective one-half interests in the property, subject of the claim, since the aforesaid James H.F. Veltman had sold his interests to claimants herein prior to the date of loss of the property in question.

The Commission finds that the Banito tract of 127.76 acres had a value of \$500.00 per acre, or a total value of \$63,880.00; and that the 100 acres of land planted in grapefruit, avocado and citrus products, known as La Clarita, had a value of \$1,750.00 per acre, including the trees with growing or ripening fruit, or, a total value of \$175,000.00.

The Commission affirms its finding that the irrigation system and agricultural equipment had a value of \$8,635.00; and that the bank account had a balance at time of loss of \$1,307.66.

Accordingly, the Commission concludes that the total value of the real and personal property, subject of the claim, was \$248,822.66 at the time of loss; and holds that claimants are entitled to certifications of loss commensurate with their respective one-half interests, or, \$124,411.33 to each claimant, with interest thereon at 6% per annum from the respective dates of loss to the date of settlement, as follows:

	<u>FROM</u>	<u>ON</u>
WILLIAM H. HILL	January 15, 1960	\$123,757.50
	December 6, 1961	653.83
		<u>\$124,411.33</u>
LOUIS MARHOEFER	January 15, 1960	\$123,757.50
	December 6, 1961	653.83
		<u>\$124,411.33</u>

The Commission is constrained to deny the portion of the claim asserted for loss of 140,000 field crates of fruit, or that fruit produced by the trees subsequent to the date when the property was taken in 1960. The Commission finds that the fruit produced subsequent to 1960 belonged to the Government of Cuba after such date of taking, rather than to the claimants. Accordingly, this portion of the claim is hereby denied.

The certification of losses, as stated below, will be entered and the remainder of the Proposed Decision, as amended herein, is affirmed as the Commission's Final Decision in this matter.

CERTIFICATION OF LOSSES

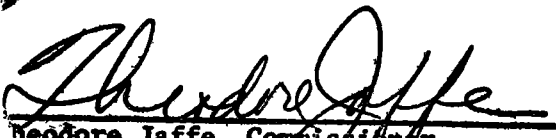
The Commission certifies that WILLIAM H. HILL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Twenty-Four Thousand Four Hundred Eleven Dollars and Thirty-Three Cents (\$124,411.33) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that LOUIS MARHOEFER 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 Hundred Twenty-Four Thousand Four Hundred Eleven Dollars and Thirty-Three Cents (\$124,411.33) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

AUG 19 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

LOUIS MARHOEFER
WILLIAM H. HILL

Claim No. CU -2972

Decision No. CU 4860

Under the International Claims Settlement
Act of 1949, as amended

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 LOUIS MARHOEFER and WILLIAM H. HILL, in the amount of \$496,800.00, based upon the asserted loss of 250 acres of land situated on the Isle of Pines, Cuba, crates of fruit and a bank account. The claimants have been nationals of the United States since naturalization in 1929.

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.

Claimants contend that they are equal partners in the partnership "La Clarita." The property involved is described as the Clarita plantation, producing grapefruit, mangoes, oranges, etc., on about 100 acres, with about 3,000 trees; and the Banito property, about 135 acres and certain hot springs. It is said that the land was purchased in 1940 through 1942 for \$6,000 and improved to the extent of \$30,000 by planting, sprinklers, tractors, and the like. The Clarita plantation assertedly produced in 1960 17,000 field crates of fruit.

The claimants further evaluate their losses as follows:

Banito land and hot springs	\$ 75,000
Clarita plantation - land, trees and equipment	175,000
Loss of 140,000 field crates of fruit at \$1.75 (the net profit per crate)	245,000
Cash in bank in Nueva Gerona	<u>1,800</u>
	\$496,800

The record includes copies of re-registration certificates of 15 parcels of land totaling 215.851 acres recorded variously in the names of WILLIAM HERMAN HILL, LOUIS MARHOEFER and James Hendrick Frederick Veltman. The interest of WILLIAM H. HILL is equivalent to 86.21 acres and the interest of LOUIS MARHOEFER is equivalent to 48.65 acres. The remainder appears to belong to James Hendrick Frederick Veltman, whose interest in the venture has not been shown. Although a request for clarification was made to claimant WILLIAM H. HILL, no response was received on this point.

The Agrarian Reform Law of May 17, 1959, published in the Cuban Official Gazette on June 3, 1959, established the National Agrarian Reform Institute and provided for the expropriation of rural properties and distribution among peasants and agricultural workers. The Fifth Transitory Provision provided that until regulations for the Law were promulgated, it should be applied through resolutions of the National Agrarian Reform Institute. The regulations for carrying out the expropriation of such

rural property were contained in Law 588, published in the Official Gazette (No. 191) on October 7, 1959.

The Commission finds that claimants' real property with certain citrus and other trees, and improvements in the nature of a watering system and agricultural equipment, was taken by the Government of Cuba in January, 1960, as contended by claimants, and specifically on January 15, 1960, all pursuant to the Agrarian Reform Law.

Other than claimant WILLIAM H. HILL'S presentation concerning the real estate holdings, and several photographs, the record contains no evidence as to the values of the properties. However, on the basis of evidence of record with the Commission as to the values of similar properties in Cuba, the Commission finds that the 215.851 acres had a value of \$200 per acre, the citrus and other trees had a value of \$30,000 and the water system and necessary agricultural equipment had a value of \$8,635. Claimants' interests are as follows:

	WILLIAM H. HILL (39.93%)	LOUIS MARHOEFER (22.53%)
Land	\$17,242.00	\$ 9,730.00
Trees	11,979.00	6,759.00
Equipment	<u>3,447.96</u>	<u>1,945.47</u>
	\$32,668.96	\$18,434.47

The record contains no evidence that 140,000 field crates of fruit were taken by the Government of Cuba, and this item of claim is denied.

The record also includes copy of a statement from the Banco Continental Cubano, showing that WILLIAM H. HILL and LOUIS MARHOEFER had a balance in their account in that bank of \$1,307.66 on April 6, 1960.

On December 6, 1961, the Cuban Government published its Law 989 which effected confiscation of all assets, personal property, and other interests of persons who left the country. Accordingly, the Commission

finds that claimants' bank account was taken on December 6, 1961, pursuant to Law 989. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

The Commission concludes that claimants suffered losses within the meaning of Title V of the Act, WILLIAM H. HILL in the amount of \$33,322.79 and LOUIS MARHOEFER in the amount of \$19,088.30.

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>
WILLIAM H. HILL	January 15, 1960	\$32,668.96
	December 6, 1961	<u>653.83</u>
		\$33,322.79
LOUIS MARHOEFER	January 15, 1960	\$18,434.47
	December 6, 1961	<u>653.83</u>
		\$19,088.30


CERTIFICATION OF LOSS

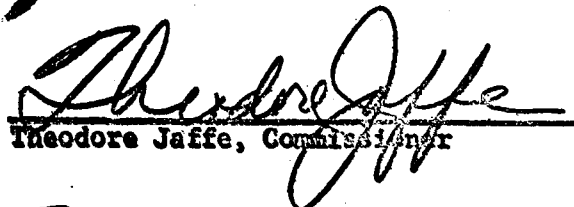
The Commission certifies that WILLIAM H. HILL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Three Thousand Three Hundred Twenty-Two Dollars and Seventy-Nine Cents (\$33,322.79) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that LOUIS MARHOEFER 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 Nineteen Thousand Eighty-Eight Dollars and Thirty Cents (\$19,088.30) with interest 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

MAY 20 1970


Lyda 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).)

CU-2972