

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

IN THE MATTER OF THE CLAIM OF

CHARLEY TOPPINO & SONS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2996

Decision No. CU 6187

Counsel for claimant:

Sidney Karo, 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 CHARLEY TOPPINO & SONS, INC. for \$24,687.00 based upon the asserted ownership and loss of certain real and personal property in Cuba.

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.

The record establishes that claimant corporation was organized in Florida and that at all times pertinent hereto all of the outstanding capital stock was owned by nationals of the United States. The Commission holds that claimant qualifies as a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant describes its losses as follows:

Land located on the Isle of Pines	\$ 5,110.00
Building thereon	15,193.00
Equipment	<u>4,384.00</u>
	\$24,687.00

Based on the entire record including a copy of a deed to the land subject of this claim, tax receipts, cancelled checks said to represent payments for the construction of the building, and a copy of an invoice for equipment, the Commission finds that claimant owned the real and personal property subject of this claim.

The record includes a letter from a shareholder of claimant who states that in 1960, it was learned that the houses on the property had been occupied by Cuban nationals.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under 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 (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in the Isle of Pines was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission further finds that the equipment was also taken on that date.

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 aforementioned deed dated March 27, 1954 to the land in question describes it as consisting of 899,215 square meters located in the village of Sante Fe, Isle of Pines and recites the purchase price as \$8,000 (the peso being on a par with the United States dollar). Moreover, the copies of

cancelled checks, which bear dates from April 28, 1954 to May 2, 1955 and which claimant states represent payments for the building and improvements constructed on the realty, total \$15,193.14. In addition the copy of the invoice for the equipment is dated July 15, 1954 and reflects the purchase price as \$4,384.25.

On the basis of the evidence of record the Commission finds that on October 14, 1960, the date of loss, the improved realty had a value of \$23,193.00 and that the equipment after appropriate depreciation had a value of \$3,069.00.

Accordingly, the Commission concludes that claimant suffered a loss in the total amount of \$26,262.00 within the meaning of Title V of the Act.

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

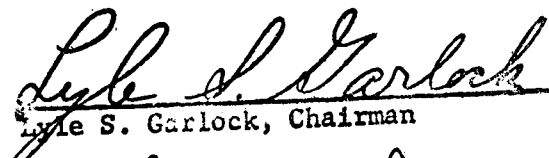
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest shall be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant claim, it is so ordered,

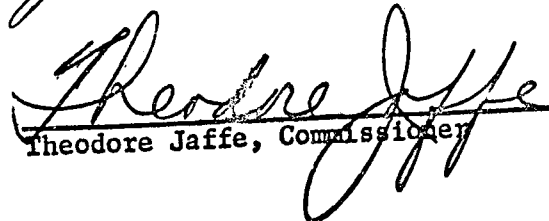
CERTIFICATION OF LOSS

The Commission certifies that CHARLEY TOPPINO & SONS, 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 Twenty-Six Thousand Two Hundred Sixty-Two Dollars (\$26,262.00) 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

MAY 12 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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 (1970).)

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