

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

IN THE MATTER OF THE CLAIM OF

THE FIRST NATIONAL BANK
AT ORLANDO, TRUSTEE U/W/O
DEVERE RITCHIE, DECEASED

Claim No. CU-3607

Decision No. CU

3921

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Gurney, Skolfield & Frey
By Philip Tatich, 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 THE FIRST NATIONAL BANK AT ORLANDO, Executor of the Estate of Devere Ritchie, Deceased. The claimant is now serving as Trustee under the will of the decedent. The claim for \$9,559.23 is based upon the asserted loss of real and personal property formerly owned by the decedent. Decedent and the beneficiaries under the will qualify as nationals of the United States.

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.

The loss is described as follows:

Land and farming improvements	\$5,181.77
Buildings	3,274.60
Personalty, less appropriate depreciation	<u>1,102.86</u>
	\$9,559.23

Based upon the entire record, including a report from abroad, Cuban tax documents and copies of a construction contract and shipping documents, the Commission finds that the decedent owned the above-described property.

The Commission finds, in the absence of evidence to the contrary, that the subject property was taken by the Government of Cuba on July 1, 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, in support of the claimed values, the report from abroad, the construction contract, excerpts from the decedent's ledgers, tax documents, a list of the personalty and description of the improvements.

Based on the entire record, the Commission finds that the asserted values are fair and reasonable. Accordingly, the Commission concludes that decedent suffered a loss in the amount of \$9,559.23 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on July 1, 1960.

The record reflects that DeVere Ritchie died on December 7, 1965. Under the terms of his will the property subject of this claim passed to Jefferson Hospital of Philadelphia, in trust nevertheless for Elaine R. Keefer and DeVere Ritchie, Jr., for life, equally, and upon the death of either, for the life of the survivor. The value of the life estate will be determined by the age of the youngest of the two named children. According to evidence of record, Elaine R. Keefer was 30 years old at the time of taking.

The Commission has adopted as a basis for valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F. R. 4547, 26 C.F.R. 2031-7.) According to the method of valuation, a life estate in property so encumbered is valued at .71871 of the entire estate, and the remainder interest is valued at .28129 of the entire estate. Therefore, since the value of the property in question is \$9,559.23 the life estate thereon is valued at \$6,870.32 which is .71871 of that amount and the remainder is valued at \$2,688.91 which is .28129 of that amount.

Therefore, the Commission finds that the interests of Elaine R. Keefer and DeVere Ritchie, Jr. in the improved real property which was taken by the Government of Cuba, had a value of \$6,870.32 and the interest of Jefferson Hospital had a value of \$2,688.91.

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 THE FIRST NATIONAL BANK AT ORLANDO, TRUSTEE U/W/O DEVERE RITCHIE, DECEASED, succeeded to and 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 Nine Thousand Five Hundred Fifty-nine Dollars and Twenty-three Cents (\$9,559.23) with interest at 6% per annum from July 1, 1960 to the date of settlement, for the benefit of the following:

ELAINE R. KEEFER	\$3,435.16
DEVERE RITCHIE, JR.	\$3,435.16
JEFFERSON HOSPITAL	\$2,688.91

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

SEP 24 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).)