

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

IN THE MATTER OF THE CLAIM OF

NARCISO T. TORRENTO
and
ANA MARGARITA G. TORRENTO

Claim No. CU -0124

Decision No. CU-2105

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

By Proposed Decision issued on July 24, 1968, which was entered as Final on September 25, 1968, the Commission denied this claim for failure of proof.

Since that time additional evidence has been received in the form of several reports from abroad, pictures, rental accounting and explanation of claimants. The Commission has reconsidered the entire record and it is

ORDERED that the Final Decision be and it is hereby set aside and the Proposed Decision is amended.

On the basis of evidence now of record, the Commission finds that claimants owned properties in the City of Camaguey, as listed below, and that they had the values indicated:

Avenida de la Libertad	\$ 1,700
Sifontes No. 106	300
Sifontes No. 112	3,000
Sifontes No. 114	3,000
Cemetery plot	<u>200</u>
	\$ 8,200

The values of the first four items are based on capitalized rental income; and as to the last, the Commission finds this asserted value is reasonable and proper.

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 involving transfer of total or partial use of urban properties was outlawed. Further the law provided that citizens of foreign countries not having the status of legal residents shall be excluded from rights and benefits conferred by the law.

On December 6, 1961, the Cuban Government published its Law 989 in its Official Gazette which confiscated all assets, personal property and real estate and other interests of persons who had left the country.

The Commission finds that claimants' improved real property having a value of \$8,000 was taken by the Government of Cuba on October 14, 1960, and that the plot, having a value of \$200, was taken by the Government of Cuba on December 6, 1961, and concludes that claimants each suffered a loss in the amount of \$4,100 within the meaning of Title V of the Act.

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.

Accordingly, the following Certifications of Loss will be entered and the remainder of the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that NARCISO T. TORRENTO 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 Four Thousand One Hundred Dollars (\$4,100.00) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

the Commission certifies that ANA MARGARITA G. TORRENTO 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 Four Thousand One Hundred Dollars (\$4,100.00) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

FEB 19 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 Amended 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].)

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2105

Under the International Claims Settlement
Act of 1949, as amended

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 \$29,150.00, was presented by NARCISO T. TORRENTO AND ANA MARGARITA G. TORRENTO and is based upon the asserted loss of land and houses in Cuba. Claimants have been nationals of the United States since November 19, 1934, and August 19, 1948, respectively.

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 interest 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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimants have asserted varying interests in six houses and a grave plot, all in Camaguey, Cuba.

By Commission letter of June 30, 1966, claimants were advised, as to the type of evidence proper for submission to establish this claim under the Act. Claimant NARICISO T. TORRENTO by letter of July 15, 1966, described the property in somewhat more detail. He also stated that as to four items he has the deeds in New York. Thereafter, by letter of July, the Commission made additional suggestions to claimant concerning the submission of supporting evidence in this matter particularly suggesting the forwarding of photocopies of the deeds, with translations of pertinent parts. However, no evidence in response to this correspondence was received.

On July 20, and October 12, claimants were invited to submit any evidence available to them. Claimant NARCISO T. TORRENTO stated that the photocopies and translations would cost a great deal of money. He was informed that he could submit the deeds for consideration.

On June 30, 1967, claimants were invited for the second time to complete appropriate forms for requesting assistance in acquiring evidence and were also informed that it might become necessary to determine this claim on the basis of the record.

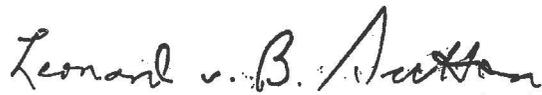
Claimants by communication of August 2, 1967, then forwarded seven requests for assistance in obtaining evidence. The Commission thereafter took appropriate action on these, without result to date.

On May 15, 1968, claimants were invited to submit the deeds in their possession, to be returned to them; and evidence of payment to the builders. Claimants were reminded of this letter on June 25, 1968. Claimants, however, by letter of July 9, 1968, stated that they would retain the deeds.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

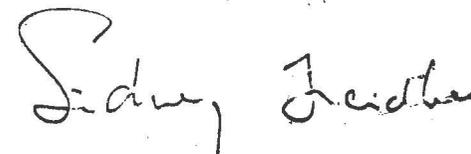
JUL 24 1968



Leonard v. B. Sutton, Chairman



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

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