

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

#21

*Urban Reform
Law -
Bank Act*

IN THE MATTER OF THE CLAIM OF

HENRY LEWIS SLADE

Claim No. CU -0183

Decision No. CU -34

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, for \$26,326.28 was presented by HENRY LEWIS SLADE based upon the asserted loss of two houses, a warehouse or garage, several lots of land, and a bank account in Cuba. Claimant has been a national of the United States since his birth in the United States.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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.

Real Property

Claimant contends that he has lost an investment in real property in Cuba valued at \$26,000.00. He describes this property as follows:

- (1) House and lot at 467 Santa Emilia Street, Havana
- (2) Warehouse or garage, and land at 465 Santa Emilia Street, Havana
- (3) House and three lots at 472 Santa Emilia Street, Havana

The record establishes that claimant owned such properties in Havana, Cuba, and that they were being rented.

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). The law further provided that if a tenant did not occupy the property, or had subleased or transferred its use to another, the property could be sold to the occupant; and further, that an occupant, whether a tenant or subtenant, or not, could purchase the property in the manner outlined (Article 9). Article 21 of the law provided that present owners of urban buildings sold under the law should receive the assigned price; however, under Article 25 ownership of so-called tenement houses would be transferred to the State without compensation to the erstwhile owners. Moreover, Article 30 provided that if urban buildings transferred under the law were mortgaged, execution of the contract of sale

should have the effect of canceling the mortgage. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Claimant states that the last time he heard from his real estate agent in Cuba was in October, 1960. At that time he was resident in the United States.

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in Havana, Cuba, 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 Official Gazette.

Accordingly, the Commission concludes that claimant suffered a loss of his real property within the meaning of Title V of the Act.

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.

Claimant has valued his real property as follows:

- | | |
|-----------------------------|----------|
| (1) 467 Santa Emilia Street | \$ 8,000 |
| (2) 465 Santa Emilia Street | 4,000 |
| (3) 472 Santa Emilia Street | .14,000 |

Claimant states that he acquired the property in 1929 after the death of his mother on September 6, 1927. Claimant has submitted documentation evidencing an offer in March, 1954, of \$5,000 for

the property at 467 Santa Emilia Street, which he deemed too low. Claimant also states that as to the property at 467 Santa Emilia Street, the house was under rent control and he received \$12.00 a month, although the tenant had sublet one room for \$20.00 per month.

It also appears that in 1955 claimant was offered \$3,500 for the property at 465 Santa Emilia Street (the warehouse or garage property) which he also refused. At that time the Banco Hipotecario Mendoza offered the comment that about \$14.00 per square vara was the price of land in that section. The area of claimant's lots in Item 2 is said to be 1,826.70 square vara. Claimant states that on October 27, 1949, Mendoza & Company wrote him that it was believed the fair value of the garage and land was \$8,850. He has described the garage as large, holding between two and four school busses.

It further appears that for income tax purposes claimant declared the value of his land as \$12,000 and the improvements thereon as \$32,000, and states that he had done so since acquiring title in 1929. In the year of his loss, after allowing a claimed depreciation of \$24,800, the Internal Revenue Service allowed a loss of \$19,200. Claimant has since stated that this represents \$11,200 for the buildings and \$8,000 for the land. Although he has stated the property was worth much more, he has submitted no evidence in substantiation of this contention.

Based on the entire record, the Commission finds that the land, including improvements, had a value of \$19,200. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$19,200 within the meaning of Title V of the Act, as the result of the taking of his realty by the Government of Cuba as of October 14, 1960.

Bank Account

Claimant also contends that he has lost a bank account in Cuba having a balance of 326.28 pesos. The record establishes that claimant had a balance of 326.28 Cuban pesos on deposit with the Banco Hipotecario Mendoza, Havana, as a result of rents deposited before the aforementioned real property was taken.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these things affect the account of the claimant in Claim No. CU-0183.

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-0183 in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. In the absence of evidence to the contrary, the Commission finds that claimant's above described bank account, totalling 326.28 pesos, was taken by the Government of Cuba on December 6, 1961. (See In the Matter of the Claim of Floyd W. Auld, FCSC Claim No. CU-0020.)

Further, the Commission finds that on December 6, 1961, claimant's 326.28 pesos had a value of \$326.28 and that he suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of his bank account by the Government of Cuba as of December 6, 1961.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of American Cast Iron Pipe Company, FCSC Claim No. CU-0249).

Accordingly, the Commission concludes that the amount of the losses sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$19,200 from October 14, 1960 and on \$326.28 from December 6, 1961 to the date on which the provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

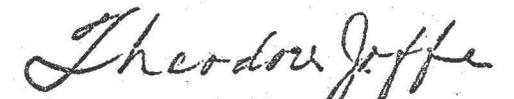
The Commission certifies that HENRY LEWIS SLADE suffered a loss, as a result of actions of the Government of Cuba, within the scope

of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nineteen Thousand Five Hundred Twenty-six Dollars and Twenty-eight Cents (\$19,526.28) with interest thereon at 6% per annum from the respective dates of taking to the date of settlement.

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

1 MAR 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner

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 upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)