

P.7

TAKING BY GOVT AGENT  
(NO SPECIAL LAW)

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

IN THE MATTER OF THE CLAIM OF  
  
JACK MOSS  
  
Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0225  
Decision No. CU-12

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 JACK MOSS for \$6,229.00 based upon the asserted ownership and loss of personal property. 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.

Claimant contends that he resided in Apartment 3B, at No. 159, Calle Septima, in Vedado, Havana, Cuba; that on June 29, 1960 he and his wife visited the United States on vacation and to obtain medical treatment for himself and that during their absence the apartment was sealed by Cuban authorities, pursuant to the Cuban Law on Urban Reform (Official Gazette, Special Edition, October 14, 1960). Thereafter, claimant contends, Urban Reform Inspectors broke the seal and confiscated the contents of the apartment.

In support of his contentions, claimant has submitted copy of a letter dated December 1, 1960 addressed to him from the American Embassy in Havana, stating that The Superior Council on Urban Reform had been systematically sealing all unoccupied dwellings in Cuba and had made it clear that under the Urban Law all leases with private owners were terminated and that commencing October 15, 1960 all rents were to be paid to the Cuban Government.

The record also contains several letters from the son of a person to whom he had sent a power of attorney to deal with his furniture. One such letter, dated December 28, 1960, refers to a petition on behalf of claimant, in connection with the sealing of the apartment, having been presented before December 22, 1960, to the Urban Reform Department. In another letter dated January 20, 1961 claimant was informed that the attorney in fact had been informed that he must await a call from the Urban Reform at which time he would present the power

of attorney. The next letter, dated February 6, 1961, notified the claimant that the Cuban Government, without informing the attorney in fact, sent an Urban Reform Inspector to dispose of the furniture and of his apartment; that the lock on the door had been broken and a new tenant moved into the apartment. In this letter it was also stated that efforts would continue to establish that the appeal previously presented was in order. However, by letter dated March 7, 1961 claimant was advised that efforts in connection with the appeal to the Urban Reform Law Department, in connection with the apartment, had been discontinued because it would be fruitless.

The Commission finds that claimant was the owner of certain personal property consisting of furniture, furnishings and personal effects which were located in the completely furnished apartment referred to hereinbefore; and that this personal property was taken from him without compensation by the Government of Cuba on January 31, 1961 when an Official Urban Reform Inspector unsealed his apartment and disposed of its contents.

Claimant has supplied a detailed listing of these items of personal property and stated that the total value of such property was \$6,229.00. After consideration of the values ascribed to each item the Commission finds such amounts to be fair and reasonable values thereof. Accordingly, it is concluded that claimant suffered a loss in the amount of \$6,229.00 within the meaning of Title V of the Act as a result of the taking of his personal property by the Government of Cuba.

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 loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from January 31, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

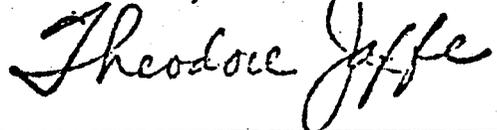
The Commission certifies that JACK MOSS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Two Hundred Twenty-nine Dollars (\$6,229.00) with interest thereon at 6% per annum from January 31, 1961 to the date of settlement.

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

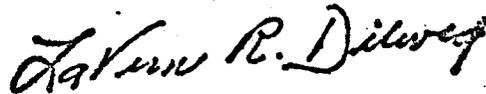
OCT 19 1966



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 20 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) (1964))