

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

IN THE MATTER OF THE CLAIM OF

WILLIAM E. SKILTON  
BLANDINA J. SKILTON  
and  
RICHARD BREVARD SKILTON

Claim No. CU-0971  
Claim No. CU-0816

Decision No. CU 4629

Under the International Claims Settlement  
Act of 1949, as amended

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the aggregate amount of \$392,714.24, were presented originally by WILLIAM E. SKILTON and BLANDINA J. SKILTON based upon the asserted loss of interests in certain real and personal property in Cuba, including bank accounts belonging to them and their then minor son. The son, having attained the age of majority, has been added as party claimant. All of the three claimants have been nationals of the United States since birth.

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 claim of WILLIAM E. SKILTON was asserted as follows:

1) Improved realty, Serafines 49, Havana	\$ 41,095.00
2) Residence at Avenue 27 #18822, Marianao	39,717.00
3) Furniture and other personalty	9,245.00
4) Bank accounts	16,124.21
5) Interest in "Cia. Importadora Skilton, S.A."	250,000.00
6) Interest in "Skilton y Cia., S.L."	2,500.00
7) Bonds of Cuban Electric Company	<u>1,500.00</u>
	\$360,181.21

The claim of BLANDINA J. SKILTON was asserted as follows:

1) Improved realty at San Indalecio 217, Havana	\$ 15,583.50
2) Improved realty at Tamarindo 45, Havana	10,051.00
3) Automobile	1,350.00
4) Savings accounts	<u>5,548.53</u>
	\$ 32,533.03

Claimants have submitted a substantial amount of supporting evidence which is discussed below under the headings of the items of property to which such evidence relates.

Cia. Importadora Skilton, S.A.

The record includes copies of stock certificates and other corroborating evidence which establishes that 1,982 shares of stock in Cia. Importadora Skilton, S.A., hereafter referred to as Skilton Co., were acquired by WILLIAM E. SKILTON. The Commission finds that WILLIAM E. SKILTON and BLANDINA J. SKILTON each owned a one-half interest in said shares of stock pursuant to the community property laws of Cuba. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.) Based upon an affidavit, dated December 12, 1969, from the former president of Skilton Co. who

has personal knowledge of the facts, the Commission finds that Skilton Co. was intervened by the Government of Cuba on November 9, 1964 (Exhibit RR).

Since Skilton Co. was organized under the laws of Cuba, it does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Skilton Co. engaged in the importing business in Cuba, and acted as agent for foreign manufacturers of certain electrical and mechanical equipment. In connection with these activities, Skilton Co. owned, primarily, current assets and certain other personal property, but no real property.

Claimants have submitted balance sheets for Skilton Co. as of June 30, 1960 and June 30, 1961. Apparently no later balance sheets or other

financial statements for Skilton Co. are available. The former president of Skilton Co. stated in his affidavit of December 12, 1969 that upon leaving Cuba after the intervention of Skilton Co. he was unable to take with him the "last balance sheets". However, his affidavit contains details concerning the disposition of the assets of Skilton Co. by officials of Cuba after intervention.

Upon consideration of the entire record, the Commission finds that the balance sheet for Skilton Co., dated over 4-1/2 years before intervention, would not be appropriate for determining the value of a stock interest in Skilton Co. because it reflects a financial condition too remote in time. This is particularly true in this case since the assets of Skilton Co., as shown by the June 30, 1961 balance sheet, consisted of current assets in the amount of \$422,948.37, fixed assets in the amount of \$9,924.55, and deferred charges in the amount of \$18,199.27. The liabilities amounted to \$16,188.65, resulting in a net worth of \$434,883.54 as of June 30, 1961. It is noted in this connection that claim is being made for \$250,000.00 on account of claimants' stock interest in Skilton Co.

The affidavit of the former president of Skilton Co., who has personal knowledge of the values of the assets on November 9, 1964, the date of loss, discloses the following (Exhibit RR):

1. Skilton Co.'s bank accounts aggregated \$217,000.00.
2. Accounts receivable were taken over by the Government of Cuba, but the amount thereof is not shown.
3. Skilton Co.'s merchandise inventory was \$29,000.00.
4. The furniture, fixtures and equipment as well as the two company automobiles were taken away.
5. Some railroad bonds and "other assets" of Skilton Co. were taken by Cuba, but no details thereof are shown.

On the basis of the entire record, the Commission finds that on November 9, 1964 Skilton Co.'s assets consisted of bank accounts in the aggregate amount of \$217,000.00; inventory in the amount of \$29,000.00; furniture and

fixtures in the net amount of \$3,574.96, after depreciation at the rate of 5% per year; automobiles in the net amount of \$1,344.36, after depreciation at the rate of 15% per year; and stock in Occidental Railroads of Cuba in the amount of \$900.00. The Commission finds no valid basis for allowing accounts receivable since the value thereof on the date of loss has not been established. Considering the period of time that elapsed between the date of the balance sheet and the date of loss, the Commission finds no valid basis for allowing any amount on account of deferred charges. In view of the circumstances herein and the fact that the liabilities of Skilton Co., \$16,188.65 on June 30, 1961, consisted primarily of taxes payable, the Commission finds no valid basis for determining that such liabilities existed on November 9, 1964, the date of loss. Accordingly, no deduction is made therefor.

Based upon the foregoing, the Commission finds that the net worth of Skilton Co. on November 9, 1964 was \$251,819.32. Since Skilton Co. had 1,987 shares of capital stock outstanding, each share of stock therefore had a value of \$126.73. It is concluded that WILLIAM E. SKILTON and BLANDINA J. SKILTON each sustained a loss in the amount of \$125,589.43 on account of their stock interests, aggregating 1,982 shares.

#### Warehouse

The Commission finds on the basis of the evidence of record, including a copy of a deed and a copy of a decree of distribution (Exhibits C and K), that WILLIAM E. SKILTON's mother owned improved real property on Serafines Street, Havana, Cuba; and that upon her death on June 27, 1959, he succeeded to said property. That claimant, who had remained in Cuba until October 12, 1962, states that this property was taken by the Government of Cuba under the Urban Reform Law of 1960.

The Commission finds that said real property was within the purview of the Urban Reform Law, published in the Cuban Official Gazette on October 14, 1960. In the absence of evidence to the contrary, the Commission finds that

the property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The evidence includes an affidavit from an architect, dated December 17, 1969, who attests to renovating the building at a cost of \$20,000.00 and estimates its value at \$42,000.00 (Exhibit AA), and statements concerning the cost and value of the improved real property as well as an evaluation by Cuban authorities in 1960 (Exhibit EE). On the basis of the foregoing evidence, the Commission finds that the improved real property at Serafines Street, Havana, had a value of \$41,582.00 on October 14, 1960, the date of loss. It is concluded that WILLIAM E. SKILTON sustained a loss in that amount within the meaning of Title V of the Act.

Residence in Marianao, Havana

The evidence establishes (Exhibit H) and the Commission finds that WILLIAM E. SKILTON and his mother jointly acquired certain improved real property in Marianao, Havana Province in 1951. Pursuant to the community property laws of Cuba, a one-half interest therein was owned in equal shares by WILLIAM E. SKILTON and BLANDINA J. SKILTON. Upon the death of WILLIAM E. SKILTON's mother on June 27, 1959, he inherited her one-half interest in the property. BLANDINA J. SKILTON, under the said community property laws of Cuba, acquired no interest in assets inherited by her husband. Therefore, WILLIAM E. SKILTON owned a three-fourths interest and BLANDINA J. SKILTON owned a one-fourth interest in the property.

The record includes a statement, dated December 9, 1969, from Honorable John Ware Graham, formerly Second Secretary at the Canadian Embassy, Havana, Cuba (Exhibit GG). On the basis of that statement, the Commission finds that after WILLIAM E. SKILTON left Cuba, the improved real property, which had been used as claimants' residence in Cuba, was rented together with its contents to the Government of Canada until January 1, 1965 when the improved real property and its contents were taken by the Government of Cuba.

The record shows that the house and land had cost \$25,000.00 in 1951 and that it had been improved in 1954 at a cost of \$17,500.00 (Exhibit AA). The evidence includes a number of statements from individuals appraising the property on the basis of personal knowledge. Based upon the entire record, the Commission finds that the improved real property had a value of \$39,717.00 on January 1, 1965, the date of loss. Accordingly, the values of the interests therein owned by WILLIAM E. SKILTON and BLANDINA J. SKILTON were \$29,787.75 and \$9,929.25, respectively.

The record includes detailed listings of the various items of personal property that were situated in the house, including a copy of an inventory thereof as of July 1960 which WILLIAM E. SKILTON submitted to the Department of State. That inventory aggregates \$9,245.00. Applying the customary 5% per year depreciation for such property, the Commission finds that on January 1, 1965, the date of loss, the contents of the residence had a value of \$7,120.88. Since WILLIAM E. SKILTON and BLANDINA J. SKILTON each owned a one-half interest in said personal property, each of them sustained a loss in the amount of \$3,560.44.

#### Automobile

The Commission finds on the basis of the evidence of record that WILLIAM E. SKILTON and BLANDINA J. SKILTON jointly owned a 1959 Nash Rambler. It further appears from the evidence of record that when WILLIAM E. SKILTON left Cuba on October 12, 1962, he loaned the automobile to a British diplomat. The Commission further finds that when the Government of Cuba took the residence and its contents on January 1, 1965, it also took the automobile.

WILLIAM E. SKILTON has stated in an affidavit, dated February 8, 1966, that the automobile cost \$2,725.00 when new. Applying the customary depreciation of 15% per year, the Commission finds that on January 1, 1965 the automobile had a value of \$272.50. Therefore WILLIAM E. SKILTON and BLANDINA J. SKILTON each sustained a loss in the amount of \$136.25.

Skilton y Cia., A Limited Partnership

Claimants have submitted evidence (Exhibits NN and PP) to establish that WILLIAM E. SKILTON and BLANDINA J. SKILTON jointly owned (under the community property laws of Cuba) a 50% interest in Skilton y Cia., a limited partnership constituting a Cuban entity. On the basis of an affidavit, dated December 10, 1969, from a partner with a 40% interest (Exhibit PP), the Commission finds that the partnership was taken by Cuba on February 17, 1966.

Claim is made for \$2,500.00 representing the original investment in 1956. It is asserted that the partnership engaged in repairing gasoline pumps, compressors, arc welders, gas regulators, torches and related equipment. However, the record fails to show precisely what assets of the partnership were taken, and there is no evidence to establish either the value of said assets or the extent of the partnership's liabilities on the date of loss. Under the circumstances the Commission is unable to determine the value of claimants' interests in the partnership on the date of loss. The value of claimants' interests in 1956 when the partnership was formed, which is 10 years before the date of loss, is insufficient for this purpose.

The Commission finds that claimants have failed to sustain the burden of proof with respect to the portions of their claims for the loss of interests in Skilton y Cia. Accordingly, these portions of the claims are denied.

Cuban Electric Company Bonds

The Commission finds on the basis of the evidence of record (Exhibit O) that WILLIAM E. SKILTON and BLANDINA J. SKILTON jointly owned 3 first mortgage 5% bonds issued by the Cuban Electric Company, due 1980, in the face amount of \$1,500.00.

The Commission has found that the Cuban Electric Company's properties in Cuba, including the property encumbered by the mortgage in which claimants

owned an interest, were taken by the Government of Cuba on August 6, 1960.

(See Claim of Cuban Electric Company, Claim No. CU-2578.)

The Commission finds that the aggregate value of claimants' first mortgage bonds on August 6, 1960, the date of loss, was \$1,500.00. Accordingly, WILLIAM E. SKILTON and BLANDINA J. SKILTON each sustained a loss in the amount of \$750.00.

#### Bank Accounts

Based upon the evidence of record (Exhibit P), the Commission finds that WILLIAM E. SKILTON and BLANDINA J. SKILTON each owned a one-half interest in several bank accounts in Cuba.

Law 989, published in the Cuban Official Gazette on December 6, 1961, by its terms effected the confiscation of all goods and chattels, rights, shares, stocks, bonds, and other securities, as well as bank accounts of persons who left Cuba. The Commission finds that this law applied to claimants. As noted above, WILLIAM E. SKILTON left Cuba on October 12, 1962. The Commission therefore finds that claimants' bank accounts were taken by the Government of Cuba on October 12, 1962. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

The Commission further finds that on October 12, 1962, the date of loss, the bank accounts had credit balances in the following amounts:

Savings Account #7643	\$10,075.18
Savings Account #I-2250	1,876.70
Checking Account #2827	4,418.78
Checking Account #85	<u>691.90</u>
Total	<u>\$17,062.56</u>

Therefore, WILLIAM E. SKILTON and BLANDINA J. SKILTON each sustained a loss in the amount of \$8,531.28.

The Commission finds on the basis of the evidence of record that RICHARD BREVARD SKILTON owned a bank account in Cuba that was also taken on October 12, 1962. The Commission further finds that the value of this bank account was \$4,610.18 on the date of loss, and concludes that RICHARD BREVARD SKILTON sustained a loss in that amount.

San Indalecio Street Property

The Commission finds on the basis of the evidence of record, including a copy of a deed, that WILLIAM E. SKILTON and BLANDINA J. SKILTON each owned a one-half interest in a two-story building and lot located at San Indalecio Street, Havana, Cuba, which they had acquired in 1956. The Commission further finds that said property was taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law of 1960.

On the basis of the entire record, including evidence of cost as well as the description, the Commission finds that the value of the property on the date of loss was \$15,583.50. Therefore WILLIAM E. SKILTON and BLANDINA J. SKILTON each sustained a loss in the amount of \$7,791.75.

Tamarindo Street Property

The Commission finds on the basis of the evidence of record, including a copy of a deed, that WILLIAM E. SKILTON and BLANDINA J. SKILTON each owned a one-half interest in a building and lot at Tamarindo Street, Havana. The Commission further finds that said property was taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law of 1960.

On the basis of the evidence of record, including a description and the age of the building, the Commission finds the value of the property on the date of loss was \$10,051.00. Therefore WILLIAM E. SKILTON and BLANDINA J. SKILTON each sustained a loss in the amount of \$5,025.50.

Recapitulation

Claimants' losses within the meaning of Title V of the Act are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>WILLIAM E. SKILTON</u>		
Skilton Co.	November 9, 1964	\$125,589.43
Warehouse	October 14, 1960	41,582.00
Residence	January 1, 1965	29,787.75
Contents of residence	January 1, 1965	3,560.44
Automobile	January 1, 1965	136.25
Bonds	August 6, 1960	750.00
Bank accounts	October 12, 1962	8,531.28
San Indalecio Street	October 14, 1960	7,791.75
Tamarindo Street	October 14, 1960	<u>5,025.50</u>
	Total	<u>\$222,754.40</u>

<u>BLANDINA J. SKILTON</u>		
Skilton Co.	November 9, 1964	\$125,589.43
Residence	January 1, 1965	9,929.25
Contents of residence	January 1, 1965	3,560.44
Automobile	January 1, 1965	136.25
Bonds	August 6, 1960	750.00
Bank accounts	October 12, 1962	8,531.28
San Indalecio Street	October 14, 1960	7,791.75
Tamarindo Street	October 14, 1960	<u>5,025.50</u>
	Total	<u>\$161,313.90</u>

<u>RICHARD BREVARD SKILTON</u>		
Bank account	October 12, 1962	\$ 4,610.18

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 as follows:

FROM

ON

WILLIAM E. SKILTON

August 6, 1960	\$ 750.00
October 14, 1960	54,399.25
October 12, 1962	8,531.28
November 9, 1964	125,589.43
January 1, 1965	<u>33,484.44</u>
Total	<u>\$222,754.40</u>

BLANDINA J. SKILTON

August 6, 1960	\$ 750.00
October 14, 1960	12,817.25
October 12, 1962	8,531.28
November 9, 1964	125,589.43
January 1, 1965	<u>13,625.94</u>
Total	<u>\$161,313.90</u>

RICHARD BREVARD SKILTON

October 12, 1962	\$ 4,610.18
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CERTIFICATIONS OF LOSS

The Commission certifies that WILLIAM E. SKILTON 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 Two Hundred Twenty-two Thousand Seven Hundred Fifty-four Dollars and Forty Cents (\$222,754.40) with interest thereon at 6% per annum from the respective dates of loss to the to the date of settlement;

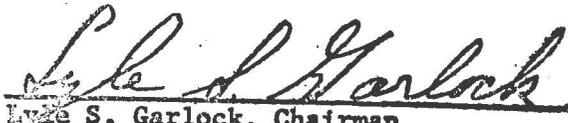
The Commission certifies that BLANDINA J. SKILTON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Sixty-one Thousand Three Hundred Thirteen Dollars and Ninety Cents (\$161,313.90) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

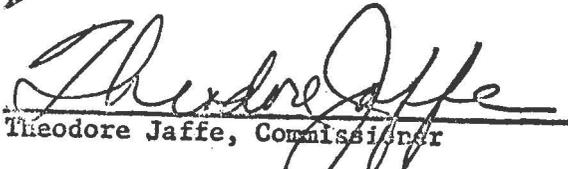
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The Commission certifies that RICHARD BREVARD SKILTON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Thousand Six Hundred Ten Dollars and Eighteen Cents (\$4,610.18) with interest at 6% per annum from October 12, 1962 to the date of settlement.

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

18 MAR 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities or the loss here certified.

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).)

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