

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

IN THE MATTER OF THE CLAIM OF

HOWARD THOMAS STAPLETON
ELEANOR M. STAPLETON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3162

Decision No. CU-793

AMENDED PROPOSED DECISION

Under date of December 6, 1967, the Commission issued its Proposed Decision certifying that claimants suffered a loss of \$2,072.00 for their improved real property and \$10,063.42 for their personal property.

Subsequently claimants clarified their contentions that the true value of said property was \$3,453.85, referring specifically to three cancelled checks totalling \$3,143.85; and further have submitted an affidavit made by claimants and Thomas John Stapleton in support of their contention that the cost of surveying the subject realty and the cost of erecting a fence around it, amounting to \$310.00, should be included in the Commission's computation of value.

Upon consideration of this matter, the Commission concludes that the value of the subject realty was \$3,453.85 and finds that claimants sustained a loss in that amount as a result of the taking of their improved realty by the Government of Cuba on December 6, 1961.

Accordingly, the certification of loss, as restated below, will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that HOWARD THOMAS STAPLETON suffered a loss, as a result of the 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 Seven Hundred Fifty-Eight Dollars and Sixty-Three Cents (\$6,758.63) with interest thereon at 6% per annum from the December 6, 1961 date of taking to the date of settlement; and

The Commission certifies that ELEANOR M. STAPLETON suffered a loss, as a result of the 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 Seven Hundred Fifty-Eight Dollars and Sixty-Four Cents (\$6,758.64) with interest thereon at 6% per annum from the December 6, 1961 date of taking to the date of settlement.

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

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

MAY 1 1968

Theodore Jaffe

Theodore Jaffe, 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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793

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 HOWARD THOMAS STAPLETON and ELEANOR M. STAPLETON, for \$13,517.27 based upon the asserted ownership and loss of an interest in land, and personal property in Cuba. Claimants have been nationals of the United States since their births in 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 have been nationalized, expropriated, intervened, or taken by the Government of Cuba.

A portion of this claim is based upon the loss of ten acres of land in Santa Fe, Isle of Pines, Cuba together with closing costs, a barbed wire around the land and a survey of the property. Claimant states that this loss amount to \$3,453.85 but has submitted no evidence to support this figure. The record contains a copy of a deed which shows that in 1956, claimant, HOWARD THOMAS STAPLETON together with his wife, ELEANOR M. STAPLETON, acquired the subject property for two thousand pesos and closing costs amounting to seventy-two dollars.

On the basis of the entire record, the Commission finds that claimants were the owners, of 10 acres of land in Santa Fe on the Isle of Pines, a province of Cuba.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

As the record shows, in March, 1961, claimants were residents in Florida. The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record the Commission finds that the land, including improvements, had a value of \$2,072.00 and accordingly, the Commission concludes that each claimant suffered a loss in amount of \$1,036.00, in respect of the improved realty, within the meaning of Title V of the Act.

A portion of this claim is based upon the loss of eight automobiles and one Chris Craft boat used in a rental business. Evidence in support of this portion of the claim includes a photograph of the boat, invoices and insurance policies for six of the automobiles purchased in 1958 and affidavits of three independent witnesses.

Based on all of the evidence of record, the Commission finds that claimants were the owners of eight automobiles and one Chris Craft boat and that these items of personal property were taken by the Cuban Government on December 6, 1961 pursuant to its Law 989. The Commission further finds that the value of the eight automobiles totalled \$7,563.42 the boat had a value of \$2,500.00 for a total of \$10,063.42 and accordingly that each claimant suffered a loss in the amount of \$5,031.71 in respect of the personalty, 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CU-3162

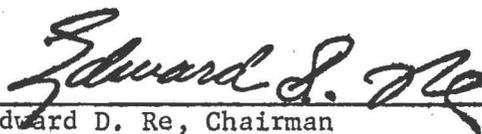
CERTIFICATION OF LOSS

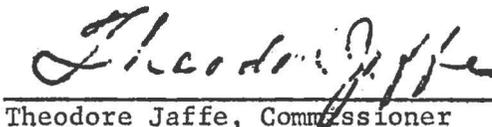
The Commission certifies that HOWARD THOMAS STAPLETON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Sixty-Seven Dollars and Seventy-One Cents (\$6,067.71), with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

the Commission certifies that ELEANOR M. STAPLETON 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 Sixty-Seven Dollars and Seventy-One Cents (\$6,067.71), with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

6 DEC 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner

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