

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

IN THE MATTER OF THE CLAIM OF

HARRY W. KLOVEKORN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0543

Decision No. CU-3735

AMENDED PROPOSED DECISION

By Proposed Decision issued July 2, 1969, the Commission certified a loss to this claimant in the amount of \$16,360.00 based on his interest in improved real property in Cuba and denied so much of the claim as was based on 10 shares of Cuban Telephone Company stock.

The Commission has determined that Cutelco was organized under the laws of the State of Delaware in 1908 and that it is no longer in good standing, having been declared inoperative and void by the Secretary of State for the State of Delaware. Accordingly, the Commission holds that claimant may maintain claim based upon his ownership interest in Cutelco.

The Proposed Decision in this matter was entered as final on August 4, 1969. Accordingly, the Final Decision is set aside and the Proposed Decision is hereby amended.

In our decision entitled the Claim of International Telephone and Telegraph Corporation (Claim No. CU-2615 which we incorporate herein

by reference), we held that the properties owned by Cutelco were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of common stock as \$184.0057.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the ITT decision; that he was an American national at the requisite times; that he has been the owner of a 1/2 interest in 10 shares of stock in Cutelco since prior to August 6, 1960; and that he suffered a loss in the amount of \$920.03 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from August 6, 1960, the date of this loss, to the date on which provisions are made for the settlement thereof. (See ITT, supra.)

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 HARRY W. KLOVEKORN 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 Seventeen Thousand Two Hundred Eighty Dollars and Three Cents (\$17,280.03) with interest at 6% per annum on \$920.03 from August 6, 1960 and on \$16,360.00 from December 6, 1961, to the date of settlement.

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

JUL 29 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 claimant establishes 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 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(a) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$35,820.00 was presented by HARRY W. KLOVEKORN and is based upon the asserted loss of a one-half interest in improved realty situated in Cuba and asserted ownership and loss of a one-half interest in stock. Claimant has been a national of the United States since his 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.

Claimant asserts that he purchased a one-half interest in parcel of land at 11013 Avenue 23, Marianao, Havana, Cuba, consisting of approximately 11,250 square feet and that he built a house thereon consisting of a one-story bungalow with three bedrooms, living and dining rooms, kitchen, maid's room with bath, two-car carport, two bathrooms and a patio. Claimant assigns a value of \$35,420.00 to the property, and the record reflects that he purchased the realty in June, 1957, for \$8,820.00.

The record contains an original and a translated copy of Instrument No. 452 of June 20, 1957, which is a Loan and Mortgage. The contract recites that claimant and his wife are loaned 13,500 pesos to be invested to build a house on certain property in Coco Solo, Marianao and that 26,600 pesos was fixed as the standard for the house.

Upon due consideration of the evidence of record, and in the absence of evidence to the contrary, the Commission holds that claimant owned a one-half interest in the above-described improved real property and that it had a total value of \$35,420.00.

The record shows however that the property was encumbered by a mortgage of which \$2,700.00 remained due to the Confederation Life Insurance Company of Canada. After deduction of this amount, the net value of the equity is found to be \$32,720.00, and claimant's interest had a value of \$16,360.00.

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,

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rights, shares, stocks, bonds and securities of persons who had left the country. Consequently, the Commission finds, in the absence of additional or contrary evidence, that claimant's realty was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Commission has found in previous claims that the Cuban Peso was equal in value to the United States Dollar on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Accordingly, it is concluded that claimant suffered a loss of his one-half interest on December 6, 1961 as a result of the actions of the Government of Cuba, within the meaning of Title V of the Act, in the amount of \$16,360.00.

A portion of this claim is asserted for losses sustained in connection with ownership of 10 shares of Cuban Telephone stock. However in this regard the Commission has determined that Cuban Telephone Company qualifies as an American national. Accordingly claimant may not maintain claim based on a stock interest therein. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FCSC Semiann. Rep. 48 [July-Dec. 1966]; and Claim of The First National Bank of Boston, Claim No. CU-2268.)

Thus the Commission is constrained to deny this portion of this claim and it is hereby denied.

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.

CERTIFICATION OF LOSS

The Commission certifies that HARRY W. KLOVEKORN suffered a loss of his one-half interest, 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 Sixteen Thousand Three Hundred Sixty Dollars (\$16,360.00) with interest thereon at the rate of 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

JUL 2 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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