

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

IN THE MATTER OF THE CLAIM OF

MARY GROSSMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1022

Decision No. CU -1709

Counsel for claimant:

Melvin D. Schiller, Esq.

AMENDED FINAL DECISION

Under date of November 27, 1968, the Commission entered its Final Decision on this claim, certifying that claimant had sustained a loss within the meaning of Title V of the Act in the principal amount of \$5,430.31, representing \$5,000.00 for certain personal effects and \$430.31 for a bank account with the Royal Bank of Canada, Havana, Cuba Branch. A portion of the claim for another bank account in the asserted amount of \$10,000.00 was denied for failure to sustain the burden of proof.

Claimant has filed a petition to reopen this matter, supported by evidence with respect to the second bank account that had been denied.

Upon consideration of the entire record, including the newly discovered evidence, it is

ORDERED that the petition to reopen this claim be granted.

The Commission finds on the basis of the evidence of record that claimant owned a bank account with Banco Hipotecario Mendoza in Cuba with a balance in her favor in the amount of \$5,000.00. The Commission further finds that this bank account was taken by the Government of Cuba on December 6, 1961.

Accordingly, it is further

ORDERED that the certification of loss as restated below be entered, and that the Final Decision be affirmed in all other respects.

CERTIFICATION OF LOSS

The Commission certifies that MARY GROSSMAN 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 Ten Thousand Four Hundred Thirty Dollars and Thirty-one Cents (\$10,430.31) with interest at 6% per annum from December 6, 1961 to the date of settlement.

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

MAR 18 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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Counsel for claimant: Melvin D. Schiller, Esq.

Appeal and objections from a Proposed Decision entered April 24, 1968;
No oral hearing requested; hearing on the record.

Hearing on the record held on November 20, 1968

FINAL DECISION

Under date of April 26, 1968, the Commission issued a Proposed Decision on this claim, certifying that claimant had sustained a loss in the principal amount of \$3,930.31, representing \$3,500.00 for the loss of certain personal effects, and \$430.31 for a bank account with the Royal Bank of Canada, Havana branch. A portion of the claim for another bank account in asserted amount of \$10,000.00 was denied for failure to sustain the burden of proof.

Claimant objected and submitted further supporting evidence with respect to the value of her personal effects.

Upon consideration of the entire record the Commission finds that the value of claimant's personal effects on December 6, 1961, the date of loss, was \$5,000.00. No further evidence having been submitted to warrant any other changes in the Proposed Decision of April 24, 1968, it is

ORDERED that the certification of loss as restated below be entered and that the Proposed Decision be affirmed in all other respects.

CERTIFICATION OF LOSS

The Commission certifies that MARY GROSSMAN 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 Five Thousand Four Hundred Thirty Dollars and Thirty-One Cents (\$5,430.31) 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 Final
Decision of the Commission.

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Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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FOREIGN CLAIMS SETTLEMENT COMMISSION
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IN THE MATTER OF THE CLAIM OF

MARY GROSSMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1022

Decision No. CU

1709

Counsel for Claimant:

Melvin D. Schiller, Esq.

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 MARY GROSSMAN, for \$20,769.22, based upon the asserted ownership and loss of personal property in Cuba. Claimant has been a national of the United States since her birth 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)]⁷, 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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States. The term does not include aliens."

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 she lost personal property (including bank accounts) in Cuba worth \$20,769.22 when she left that country on or about January 3, 1961. In support of this contention, claimant has submitted a copy of her 1961 income tax return, copies of correspondence with the Department of State, and affidavits of various persons.

Included in the record is a copy of a letter from the Banco Nacional de Cuba (which purchased the Royal Bank of Canada on November 30, 1960) to claimant, dated January 24, 1962, in which it is stated that the balance of \$430.31 in claimant's account was transferred to Agency 4-10-09 on September 20, 1961, pursuant to Resolution No. 6178 of the Ministry of Labor.

The record also includes a listing of claimant's personal property in Cuba, including furniture, linens, silverware, electrical appliances, and clothing, for which a claim is asserted in the amount of \$10,000.00.

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, rights, shares, stocks, bonds and securities of persons who had left the country.

As the record shows, claimant left Cuba on or about January 3, 1961 and since that date has been living in Miami, Florida. The Commission finds, in the absence of evidence to the contrary, that the personal 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 personal property of the claimant, not including the bank account, had a value of \$3,500.00. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$3,930.31, including the bank account balance of \$430.31 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 Claim of Lisle Corporation, Claim No. CU-0644).

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 December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

The remainder of this claim, for \$10,000.00, is based upon the asserted value of a bank account at the Banco Hipotecario Mendoza.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

The Commission finds that the claimant has not met the burden of proof in that she has not submitted evidence of sufficient probative value to this item of claim. Thus, the Commission is constrained to deny this portion of the claim and it is hereby denied.

CERTIFICATION OF LOSS

The Commission certifies that MARY GROSSMAN 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 Three Thousand Nine Hundred Thirty Dollars and Thirty-One Cents (\$3,930.31), 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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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 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).)