

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

IN THE MATTER OF THE CLAIM OF

BEN GREENBERG

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2045

Decision No. CU
3551

Counsel for claimant:

Herbert Spindel, 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 BEN GREENBERG for \$24,800, based upon the asserted ownership and loss of an interest in improved realty, personalty and rentals. Claimant has been a national of the United States since his naturalization in 1950.

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 interests, 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 lost improved real property in Santiago de las Vegas, used as a bakery, including the equipment installed therein, and rentals from January 1, 1959.

The record includes a copy of a deed and a report from sources abroad on the basis of which the Commission finds that in 1942 claimant's mother, known as Ellen Greenberg, purchased for the stated price of 500 pesos certain real property of an area of 213.18 square meters improved by a five-room house of masonry and tile. Thereafter the property was improved by the addition of a bakery with equipment, a brick furnace and a smoke stack. Ellen Greenberg was naturalized in 1958 and died in 1963, survived by four children.

The Commission further finds that prior to her death, Ellen Greenberg, in the presence of her children Rose Laskin and Jack Greenberg, United States nationals, gave her interest in the property to claimant herein, on the condition that he continue to care for his sister, Bertha Greenberg.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law which outlawed renting of urban properties, and all transactions involving total or partial use of properties, including commercial properties. Moreover, the law provided that citizens of foreign countries not having the status of legal residents were excluded from any rights and benefits conferred by this law.

Accordingly, the Commission finds that the aforesaid real property was taken from Ellen Greenberg by the Government of Cuba pursuant to the provisions of the Urban Reform Law on October 14, 1960; and that claimant herein succeeded to the claim arising from the loss, within the meaning of Title V of the Act.

In arriving at the value of the property, the Commission has given consideration to all evidence of record, including the area of the land, the type of construction of the building, and improvements, including the usual equipment of a bakery including mixers, pots and pans, mechanical equipment, tables, etc.; as well as claimant's statement that the property rented for \$600 per year.

On the basis of the entire record, and considering the location and potential value of a bakery to the Government of Cuba, the Commission finds that the land had a value of \$2,500 and the house and equipment, after appropriate depreciation, had a value of \$13,260.

Accordingly, the Commission concludes that claimant succeeded to and suffered a loss in the amount of \$15,760 within the meaning of Title V of the Act, as the result of the taking of the above-described property by the Government of Cuba as of October 14, 1960.

Claim has also been made for rentals assertedly due on the property. However, the record does not establish that any rentals were due to claimant or his predecessor prior to October 14, 1960, and after that date the property belonged to the Government of Cuba. Accordingly, this item of claim is denied.

The Commission has decided that in certification of loss 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), and in the instant case it is so ordered.

CU-2045

CERTIFICATION OF LOSS

The Commission certifies that BEN GREENBERG succeeded to and 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 Fifteen Thousand Seven Hundred Sixty Dollars (\$15,760.00) with interest at 6% per annum from October 14, 1960 to the date of settlement.

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

MAR 14 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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).)