

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

IN THE MATTER OF THE CLAIM OF

HERSCHEL G. HARRIS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2137

Decision No. CU 1902

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in an un-stated amount, was presented by HERSCHEL G. HARRIS, and is based upon the asserted loss of an investment in land. 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 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.

The evidence of record herein includes a Deed submitted by claimant, as well as additional evidence available to the Commission, which discloses that the claimant herein, HERSCHEL G. HARRIS, was the registered owner of 35 acres of unimproved land known and described as the east half of lot 14 and 3/4 parts to the south of the west half of lot 15 of Section 25, Hacienda Santa Rosalia Estates, Sierra de Caballos, Isle of Pines, Cuba; that this property was originally purchased by the father of claimant in 1907 and that a Deed was issued to claimant under Document 87 of February 27, 1957, from the Isle of Pines Land & Development Company, as authorized before Notary Leonardo Cano Martin.

Based upon the entire record, the Commission finds that claimant was the registered owner of 35 acres of land, without improvements, located in Santa Rosalia Estates, Sierra de Caballos, Isle of Pines, 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 December 1961, claimant resided in the United States. The Commission finds, in the absence of evidence to the contrary, that claimant's investment in the subject real property 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.)

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 property register of the Isle of Pines, Volume 146, folio 89, Inscription #1, includes finca 10442, which refers to rural property formed by the east half of lot 14 and 3/4 parts to the south of the west half of lot 15, Section 25 of Hacienda Santa Rosalia, Sierra de Caballos, including 35 acres. The recorded evaluation given for this property in the land register is \$700.00.

The evidence of record also includes a map of the Santa Rosalia Estates prepared in 1904, showing the sub-division of the land in that area into 40 acre lots. Evidence available to the Commission includes affidavits of former brokers doing business in the sale of acreage in the Hacienda Santa Rosalia Estates and other areas of the Isle of Pines, which relate to the value of such units or lots of land. The values of such lots are estimated to vary in value from \$100.00 to \$500.00 per acre, depending upon size, location, natural attributes of such land and other factors. Evidence of record before the Commission in this and related claims involving land in the area of the Hacienda Santa Rosalia Estates, Isle of Pines, discloses that an acre of land in the average lot in this area had a value of \$200.00 per acre at time of loss in 1961; and, that the 35 acres involved in this claim, in the absence of evidence to establish a higher value, would have a total value of \$7,000.00 at time of loss. Accordingly, the Commission concludes that claimant herein suffered a loss in the amount of \$7,000.00, within the meaning of Title V of the Act, when the 35 acres owned by him was taken by the Government of Cuba.

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.

CERTIFICATION OF LOSS

The Commission certifies that HERSCHEL G. HARRIS suffered a loss, as a result 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 Seven Thousand Dollars (\$7,000.00), 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

MAY 29 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).)