

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

IN THE MATTER OF THE CLAIM OF

JEEN LOIS LYSAUGHT

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2393

Decision No. CU **3460**

Counsel for claimant:

J. D. Lysaught, Esq.

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 \$200,000.00 was presented by JEEN LOIS LYSAUGHT based upon the asserted ownership and loss of an interest in a warehouse. Claimant has been a national of the United States since 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 contends that she owned a 3/5 interest in a warehouse situated at Calle Prado No. 615 (formerly Prado No. 125) Havana, Cuba. The record contains a probated copy of the will of her late grandfather, Bruno Diaz; copies of letters from Shaffer & Pierson, Attorneys at Law, dated October 10, 1955 and May 9, 1960; and a Decision of the Surrogate's Court of Kings County, New York, dated June 11, 1966.

On the basis of the entire record, the Commission finds that Sarah E. Diaz, Ida Diaz and Adelaide E. Schoor, each owned a 1/5 interest in a warehouse at Calle Prado No. 615 (formerly Prado No. 125), Havana, Cuba; that upon the death of Sarah E. Diaz, unmarried, on December 27, 1958 and Adelaide E. Schoor, on March 23, 1961, unmarried, their respective interests in the aforementioned warehouse were inherited by Ida Diaz; and upon the death of Ida Diaz on September 3, 1963, her then interest, namely 3/5, was inherited by her daughter, the claimant, JEEN LOIS LYSAUGHT.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law, among other things, the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2).

The record contains the copy of a letter from Bruno D. Rivenburg (Claim No. CU-1292) to the Department of State, dated September 25, 1960,

wherein he indicated that the last payment of rent received by him was July 1, 1960. He also indicated that he was advised that just prior to September 25, 1960 representatives of the Cuban Government told everyone to leave the premises at Calle Prado No. 615. Based upon all the evidence of record, the Commission finds that the aforementioned property was taken pursuant to the Urban Reform Law and that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette.

Claimant has no personal knowledge of the claimed property but the record contains a report of certain monthly rental collections for 1959, and a letter from Juan Diaz Cuervo, who managed the property in Cuba and who was a partner in the business enterprise which rented the claimed property, in which he stated the estimated value of the property in 1958 was \$300,000.00. It appears that the property consisted of a two and one-third story building on a plot of land of 991.30 square meters and was located at 615 Paseo de Marti in the business section of Havana, Cuba near the national capital building. It was mainly occupied by the enterprise J. B. Diaz and Company which purchased, warehoused and sold tobacco for export. Although the location of the property adds to its value, nevertheless the building thereon is of considerable age and has a large obsolescence factor and did not produce large rentals based on the value now claimed. In weighing all the evidence, the Commission finds that the value of the property in question was \$102,000.00 at the time of loss and the value of claimant's 3/5 interest therein was \$61,200.00.

Accordingly, the Commission concludes that the claimant suffered a loss in the amount of \$61,200.00 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), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that JEEN LOIS LYSAUGHT 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 Sixty-one Thousand Two Hundred Dollars (\$61,200.00) 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

JAN 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).)