

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

IN THE MATTER OF THE CLAIM OF

LOUIS SUSKIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3527

Decision No. CU 3370

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 \$56,167.87 was presented by LOUIS SUSKIN based upon the asserted loss of an interest in land in Santa Fe, Isle of Pines, Cuba, represented by a stock interest in Cia. de Bienes Races de Santa Fe, otherwise known as Santa Fe Realty Company.

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.

Evidence of record includes stock certificates establishing that claimant owned 440 shares of Santa Fe Realty Company. This Company was organized under the laws of Cuba and does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation it has been held previously that a stockholder in such a corporation is entitled to file a claim based upon his ownership interest therein.

The record in this and the related claims discloses that LOUIS SUSKIN purchased about 1,000 acres of land in the Isle of Pines and thereafter formed the Santa Fe Realty Company, of which he was President. This property was intended as a residential development and was divided into lots and blocks. Some sales had been made when conditions in Cuba in 1960 precluded further development of the investment.

The Agrarian Reform Law of May 17, 1959, published in the Cuban Official Gazette on June 3, 1959, established the National Agrarian Reform Institute and provided for the expropriation of rural properties and distribution among peasants and agricultural workers. The regulations for carrying out the expropriation of such rural property were contained in Law 588, published in the Official Gazette (No. 191) on October 7, 1959.

On the basis of evidence of record in these and other claims before the Commission, the Commission finds that the Santa Fe Realty Company, and all its properties, were taken by the Government of Cuba on October 15, 1960, pursuant to the provisions of the Agrarian Reform Law.

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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". The Commission has concluded that this phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property and that it is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider; i.e., fair market value, book value, going concern value, or cost of replacement.

Claimant has submitted considerable documentation covering the cost of the land purchase, advertising expenses, construction costs, mapping costs, legal and registration fees and the like. Additionally, the record includes a balance sheet of Santa Fe Realty Company, dated September 8, 1959, submitted by Southeastern Home Mortgage Company, (CU-2659) in connection with an affidavit of a former auditor and Treasurer of said company. This balance sheet reflects the following:

ASSETS

First National Bank, Ft. Lauderdale		\$	134.26
Furniture and Fixtures,			
Typewriter in Cuba			144.20
Land Contracts Receivable			8,619.50
Investment in Land			99,655.09
L. Suskin Drawing Account			7,500.00
Organization Expense			2,391.91
Electric Deposit in Cuba			<u>15.00</u>
		\$	118,459.96

LIABILITIES

Account Payable - Home Mortgage Co.		\$	2,500.05
Notes Payable			
Home Mortgage Company	\$	23,130.96	
Home Real Estate Company		3,000.00	
S. Oliver		15,000.00	
L. Suskin		<u>16,500.00</u>	60,131.01
Capital Stock	\$80,000.00		
Net Loss to date	<u>(21,671.05)</u>		<u>58,328.95</u>
		\$	118,459.96

Upon examination of the entire record, the Commission concludes that the value of the Santa Fe Realty Company can be best determined from its balance sheet. The bank account in Florida, however, was not subject to being taken by the Cuban Government and must be deducted from the assets to be considered. Moreover, it appears that the item of "organizational expense" is merely a bookkeeping item, and should not be considered as an asset for purposes of finding value for certification of loss.

Thus the calculation of the net worth of the Santa Fe Realty Company is as follows:

Total assets (adjusted by subtracting the Florida bank account and organizational expense)	\$115,933.79
Less current liabilities	<u>60,131.01</u>
	\$ 55,802.78

The Commission finds, based upon the evidence of record, that Santa Fe Realty Company had 800 shares of stock outstanding on the day it was taken, that each share had a value of \$69.7534, and concludes that as a result of such taking, claimant suffered a loss of \$30,691.50 for his interest in the company, 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 LOUIS SUSKIN 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 Thirty Thousand Six Hundred Ninety-one Dollars and Fifty Cents (\$30,691.50) with interest at 6% per annum from October 15, 1960 to the date of settlement.

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

DEC 11 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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 for 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 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].)