

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

IN THE MATTER OF THE CLAIM OF

GENERAL CONFERENCE CORPORATION  
OF SEVENTH-DAY ADVENTISTS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -4816

Decision No. CU 4543

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 \$610,100.52 was presented by the GENERAL CONFERENCE CORPORATION OF SEVENTH-DAY ADVENTISTS based upon loss of real and personal property in Cuba.

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.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

An officer of the claimant corporation has certified that the claimant was organized by United States citizens of the District of Columbia as a charitable corporation which issued no shares of stock, for the purpose of diffusing moral and religious knowledge throughout the entire world. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act. (See Claim of Independence Foundation, Claim No. CU-2152.)

The claim is based upon the loss of claimant's Adventist Seminary (Seminario Adventista de Cuba) situated about five miles from the City of Santa Clara, Cuba. The Seminary had no separate entity. The property consisted of land, improvements thereon, and personalty used for the purposes of the Seminary.

The record contains copies of Deed No. 92 of May 15, 1940, and No. 246 of July 16, 1958, by which the claimant corporation purchased 93.9414 and 40.2606 hectares of land with some improvements, for a total of 60,000 pesos; a situation map of the property so purchased; a list of improvements made on the subject property during the period from 1955 to 1960, inclusive; and financial statements showing the assets and liabilities, and operation of the Seminary for the financial years ending June 30, 1961, and June 30, 1962.

On the basis of such evidence of record, the Commission finds that the claimant corporation owned 134.2020 hectares of land situated about five miles from the City of Santa Clara, Cuba, with improvements and equipment serving the purposes of claimant's Adventist Seminary.

The record shows that by July, 1960 much of the non-Cuban personnel had been replaced by the General Conference. However by the end of June, 1962

the Cuban Government was in full control of the properties of claimant. On February 20, 1967 agents of the Cuban Government took formal possession of the property. Accordingly, the Commission finds that claimant's Adventist Seminary, including land, improvements, and equipment was effectively intervened by the Government of Cuba on July 15, 1962, following an audit of the Conference's property.

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". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The balance sheet of June 30, 1962, indicates the value of the assets of the claimant's Seminary as follows:

<u>A S S E T S</u>			
<u>Current</u>			
Cash and bank		4,607.36	
Accounts receivable		70,383.25	
Inventories and prepaid charges		<u>27,086.62</u>	
Total Current Assets			102,077.23
<u>Fixed</u>			
Land		57,582.56	
Buildings	259,049.18		
Less reserve for depr'n.	<u>61,862.39</u>	197,186.79	
Equipment	125,251.34		
Less reserve for depr'n.	<u>81,441.36</u>	<u>43,809.98</u>	
Total Fixed Assets			<u>298,579.33</u>
Total Assets			400,656.56

The Commission has carefully considered all of the evidence, taking into account the basis of valuation most appropriate to the property and equitable to the claimant, and finds that the values most appropriate for the subject properties are reflected in the June 30, 1962, balance sheet with adjustment as follows.

The Deed No. 246, submitted by claimant, shows that in July, 1958, the claimant purchased 40.2606 hectares of land for 44,000 pesos or about 1,100 pesos per hectare. Inasmuch as the United States dollar was at par with the Cuban peso in 1958, the Commission concludes that the 93.9414 hectares of land, acquired in 1940 and adjoining claimant's new acquisition also had the value of \$1,100.00 per hectare. Since real property maintained its value in Cuba, the Commission finds that claimant's land of 134.2020 hectares, now in question, had the total value of \$147,622.20 on July 15, 1962, the date of loss.

Therefore, on the basis of the entire record, and the peso being at par with the United States dollar, the Commission finds that claimant's property, lost on July 15, 1962, in Cuba, had a value of \$490,696.20 and concludes that the claimant sustained a loss of interest in the real and personal property mentioned above within the purview of Title V of the Act in the total amount of \$490,696.20.

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

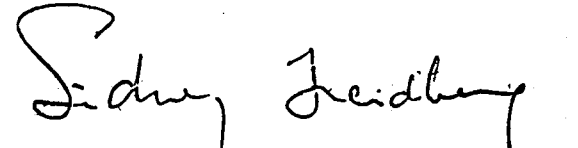
The Commission certifies that GENERAL CONFERENCE CORPORATION OF SEVENTH-DAY ADVENTISTS sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Ninety Thousand Six Hundred Ninety-six Dollars and Twenty Cents (\$490,696.20) with interest thereon at 6% per annum from July 15, 1962, the date of loss, to the date of settlement.

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

MAR 4 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
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).)

CU-4816