

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

IN THE MATTER OF THE CLAIM OF

HERMAN SZMANT

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -3107

Decision No. CU  
5829

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 HERMAN SZMANT for \$11,000.00 based upon the asserted ownership and loss of personal property in Cuba. Claimant has been a national of the United States since naturalization on April 13, 1944.

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 describes his loss as follows:

Furniture and household appliances	\$ 6,000.00
Library	2,000.00
1956 Chevrolet Station Wagon	1,000.00
Mortgage deposit in Banco del Caribe	<u>2,000.00</u>
	\$11,000.00

Claimant also states he lost (through nationalization) bonds of the "Vista Alegre Club" (\$200.00) and the "Ciudamar Yacht Club" (\$100.00).

Based upon the entire record, including affidavits of persons having immediate knowledge and a letter from the former General Manager of the Banco del Caribe, the Commission finds that claimant owned certain household furnishings and appliances, a library including Chemical Abstracts 1940-1960 and Journals of the American Chemical Society, a Chevrolet station wagon and a deposit of \$2,000.00 "in Banco del Caribe".

The record reflects that claimant and his family left their home in Santiago de Cuba on January 4, 1961, under political pressure, and were obliged to abandon their belongings, which were taken over by the Castro Government.

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 record includes, in support of the claimed values, an enumeration of the personal property, a copy of the 1956 Pennsylvania registration of the car and a letter from the former manager of the Banco del Caribe affirming the \$2,000.00 deposit.

Based on the entire record, the Commission finds the properties had the following values on the date of loss:

Furniture, appropriately depreciated	\$5,075.00
Library	200.00
Automobile (National Automobile Dealers Association)	720.00
Bank deposit	<u>2,000.00</u>
	\$7,995.00

The record does not support the assertion as to the loss of bonds, and this part of the claim is denied.

Under the Community Property Law of Cuba, claimant's spouse had a one-half interest in the property. Inasmuch as she was not a national of the United States on the date of loss, her interest in the subject properties is not within the scope of the Act.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$3,997.50 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on January 4, 1961.

The Commission has decided that in certifications 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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that HERMAN SZMANT 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 Three Thousand Nine Hundred Ninety-seven Dollars and Fifty Cents (\$3,997.50) with interest at 6% per annum from January 4, 1961 to the date of settlement.

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

SEP 9 1970

  
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Lyle S. Garlock, Chairman

  
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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).)