EXHIBIT 1

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

IN THE MATTER OF THE CLAIM OF

JULIUS J. SHEPARD

Under the International Claims Settlement Act of 1949, as amended

Claim No. CU-0407

Decision No. CU-3453

Counsel for claimant: Rufus King, Esq.

AMENDED PROPOSED DECISION

Under date of January 14, 1969, the Commission issued its Proposed Decision on this claim, certifying a loss in the amount of $33,959.17 plus interest, in favor of claimant, based upon a debt due from Compania Hotelera Shepard, S.A., a Cuban corporation, and denying the portions of the claim for the nationalization of claimant's 100% stock interest in said Cuban corporation and for other debts assertedly due from the Cuban corporation.

Claimant objected to the Proposed Decision only with respect to the denial of his claim for the stock interest in the Cuban corporation, and requested an oral hearing which was duly held on March 27, 1969.

At the oral hearing, additional documentary evidence was introduced, claimant testified in his own behalf, and the testimony of three other witnesses was taken. These witnesses were Michael Shores, Esquire, claimant's former attorney in Florida who had recommended claimant's investment in the Cuban corporation and had personal knowledge of claimant's operations in Cuba; claimant's former attorney in Cuba, Dr. Armando R. Lendian, and Mr. Luis Ponce, claimant's former auditor in Cuba, both of whom had direct personal knowledge of the facts concerning the subject matter of this claim.

Upon consideration of the entire record, including the evidence presented at the oral hearing, and subsequently, it is

ORDERED that the Proposed Decision be amended as follows:

The Commission finds that claimant owned a 100% interest in Compania Hotelera Shepard, S.A., a corporation organized under the laws of Cuba, hereafter called the Cuban corporation. The Commission further finds that on January 1, 1959 elements of the army of the Government of Cuba took over the Hotel Capri, which was being operated by the Cuban corporation, and by its actions effectively deprived claimant of control over the Cuban corporation. Accordingly, the Commission concludes that claimant sustained a loss within the meaning of Title V of the Act on January 1, 1959.

It further appears from the record that claimant was compelled to continue operating the hotel although he had already been deprived of dominion and control over his property. The evidence is that large numbers of troops were quartered in the hotel without payment. It was also established that Che Guevera and other high officials in the new Government several times assured the claimant that if he kept the hotel open with his own resources, it would appropriate large sums to promote new tourist business and the control of his hotel would be returned to him. Under these circumstances the financial position of the Cuban corporation progressively deteriorated, and it was necessary for claimant's hotel to borrow substantial sums of money from a local Cuban bank. In order to conform with the new Cuban Government's directions, claimant was compelled to pledge all of his capital stock of the Cuban corporation as well as the leases he had executed with tenants for the rental of the casino, the gift shop, the beauty salon, and the barber shop, as collateral for the hotel's loans. Debts of the Cuban corporation continued to mount while profits continued to decrease. Eventually the Cuban corporation was hopelessly insolvent, and all of claimant's investment of money, time and effort had been lost as a result of actions by the Government of Cuba. What had started out as a very profitable establishment was now an insolvent corporation with debts it could never hope to repay. Claimant, subsequently, was able to escape to the United States.

The Commission holds that it would be manifestly inequitable and contrary to the express language of Title V of the Act to determine the extent of claimant's loss on the basis of the book value of the Cuban corporation's assets or its net worth on January 1, 1959, the date of loss. In this connection, evidence was introduced at the oral hearing that shortly after claimant commenced operations in Cuba in 1957, he was offered $1,500,000.00 for his 100% interest in the Cuban corporation. Claimant rejected this offer because he considered it inadequate in the light of the Cuban corporation's potential. It was further established by credible evidence at the hearing that Hotel Capri was a very profitable investment prior to the Castroite activities that led to the forcible overthrow of the prior Cuban Government and that on a projected basis, the hotel's annual net earnings were $200,000.00.

Considering all of the foregoing, the Commission finds that the "valuation most appropriate to the property and equitable to the claimant" in this case (Section 503(a) of the Act) is the amount resulting from capitalizing the annual earnings of $200,000.00 of the Cuban corporation at 10%. Accordingly, the Commission finds that the value of claimant's 100% interest in the Cuban corporation on January 1, 1959, the date of loss, was $2,000,000.00.

At the oral hearing a request was made that the portion of the claim for other debts due from the Cuban corporation in the amount of $60,799.00 be withdrawn. Upon consideration of this matter, it is

ORDERED that the request be and it is hereby granted.

Accordingly, the certification of loss as restated below will be entered, and in all other respects, the Proposed Decision of January 14, 1969 is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that JULIUS J. SHEPARD 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 Two Million Thirty-three Thousand Nine Hundred Fifty-nine Dollars and Seventeen Cents ($2,033,959.17) with interest at 6% per annum from January 1, 1959 to the date of settlement.

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

3 0 APR 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 Amended 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].)