

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

IN THE MATTER OF THE CLAIM OF

MANUEL DOMINGUEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0319

Decision No. CU -6285

FINAL DECISION

On July 28, 1971 the Commission issued its Proposed Decision in this matter certifying a loss as of December 6, 1961 to claimant in the amount of \$9,400.00 for his one-half interest in certain personalty including two cars. The value of this personalty was \$21,842.00 from which had to be deducted \$3,042.00 representing items owned by his daughter, her husband and their children. As claimant's spouse was not a United States national, as required by the Act, her interest could not be certified.

Claimant has now submitted evidence establishing that he and his spouse, pursuant to the community property law of Cuba, owned equal interests in a residence at 105-30th Street in Miramar.

The Commission further finds that this property was taken by the Government of Cuba on December 6, 1961 pursuant to its Law 989.

In arriving at the value of this improved real property, the Commission has considered the declared value as of 1947, the capitalization of the established rental and has considered the fact that whereas appreciation and depreciation were about equal, subsequent to 1960 values increased.

The property is described as a plot of 900 square meters improved by gardens, a two-story house having about twelve rooms, and the usual hallway, stairs, terraces, utilities and the like; as well as a 2-car garage. Claimant avers that there was also a roof solarium and a 2,000-gallon cistern in the garage.

On the basis of the entire record the Commission finds that this improved real property, and fixtures had a value of \$60,000.00 on the date of loss. Although claimant states as of April, 1970, that his wife has become a United States citizen, she was not, however, a United States national as of December 6, 1961 and her interest cannot be certified.

Accordingly, the Commission finds that MANUEL DOMINGUEZ suffered a loss of \$30,000.00 in this connection.

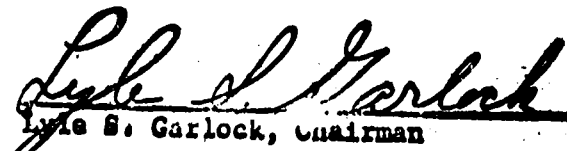
The Certification of Loss in the Proposed Decision is set aside, the following Certification of Loss will be entered and in all other respects the Proposed Decision as amended herein is affirmed.

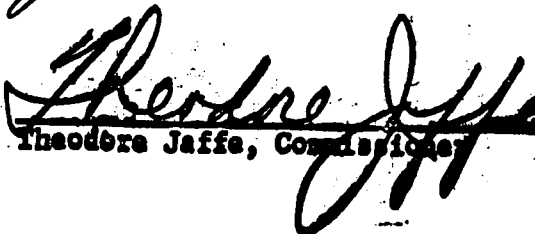
CERTIFICATION OF LOSS

The Commission certifies that MANUEL DOMINGUEZ 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-Nine Thousand Four Hundred Dollars (\$39,400) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

SEP 9 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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Claim No. CU -0319

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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 MANUEL DOMINGUEZ for \$81,100 based upon the asserted ownership and loss of real and personal property in Cuba. Claimant has been a national of the United States since his naturalization in 1933.

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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

Claimant described the asserted losses as follows:

Land	\$ 6,500
House, with solarium and tank	54,600
Furniture, furnishings, clothing	17,000
Two automobiles	3,000

Claimant has recovered from a private depository in Cuba certain documentation which might establish his title to the house and plot at 105 30th Street in Miramar, which he states is the home he built.

Further, he has indicated that he placed the title in his wife from whom he is separated, but whom he wishes to retain the property. Other papers have been left elsewhere in Cuba.

It was suggested to claimant, on several occasions that he furnish his own translation or statement as to the pertinent part of the documents in his possession, but claimant has consistently declined to do this. Under these circumstances the Commission has no alternative but to hold that claimant has failed to establish his ownership in improved real property taken by the Government of Cuba, and accordingly, this part of his claim is denied.

Claimant has also furnished a detailed listing of the furniture and furnishings, clothing and automobiles left in Cuba. The Commission finds that under the community property law of Cuba, his wife had a one-half interest therein. Inasmuch as she is not a national of the United States so much of the claim as is based on her interest must be denied.

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On December 6, 1961, the Cuban Government published its Law 989 which provided for confiscation of all assets, personalty and other interests, of persons who left that Country. It appears that claimant left Cuba in 1960 and that his wife left Cuba in 1961. The Commission finds, in the absence of evidence to the contrary, that the subject personal property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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 Commission has considered the claimant's listing of the personalty which he describes as depreciated values, and affidavits in support thereof. The Commission finds these values fair and reasonable. The total, including two cars is \$21,842. However, from this is deducted the clothing belonging to his daughter, her husband and their children, leaving a value of \$18,800. Pursuant to the community property law, the Commission concludes that claimant suffered a loss in the amount of \$9,400 as a result of the taking of this property by the Government of Cuba.

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.

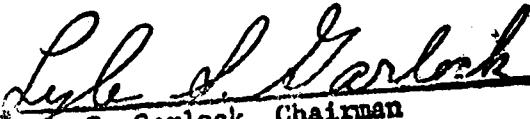
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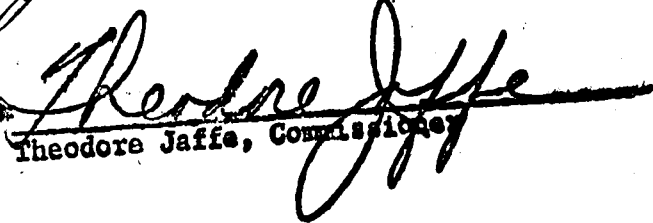
CERTIFICATION OF LOSS

The Commission certifies that MANUEL DOMINGUEZ 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 Nine Thousand Four Hundred Dollars (\$9,400) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

JUL 28 1971


Lyle S. Garlock, Chairman


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. 1.5(e) and (g), as amended (1970).)