

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

IN THE MATTER OF THE CLAIM OF

WILLIAM P. GRIFFIN
ESTHER M. GRIFFIN

Claim No. CU-0417

Decision No. CU 6206

Under the International Claims Settlement
Act of 1949, as amended

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 WILLIAM P. GRIFFIN for \$13,911.03 based upon the asserted ownership and loss of real and personal property, and stock interests in Cuban companies. Claimant has been a national of the United States since birth.

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 record discloses that ESTHER M. GRIFFIN, the wife of WILLIAM P. GRIFFIN, has also been a national of the United States since birth. Pursuant to the Community Property Law of Cuba she had a 1/2 interest in property acquired by her husband in Cuba subsequent to their marriage. Accordingly, ESTHER M. GRIFFIN, is joined as claimant in this matter.

Claim has been asserted as follows:

Stock in Compania Cubana de Niples, S.A.	\$ 7,500.00
Stock in Compania Cubana de Tubos, S.A.	500.00
A lot in Barreras, Havana	3,291.56
1/2 interest in household furnishings	<u>2,619.47</u>
	\$13,911.03

Based on the evidence of record including stock certificates in the two Cuban corporations in the name of claimant, WILLIAM P. GRIFFIN, a copy of the contract of sale for the lot subject of this claim, and a detailed list of the household furnishings. The Commission finds that claimants owned the real and personal property subject of this claim.

In addition, based upon evidence submitted in Claim of Pittsburgh Nipple Works, Inc., (Claim No. CU-0416) the Commission finds that claimants' stock interests comprised 25% of each of the Cuban corporations, and that these corporations were intervened by the Government of Cuba on February 14, 1962.

Since the Cuban corporations were organized under the laws of Cuba, neither qualifies as a corporate "national of the United States" as 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. Therefore claimants are entitled to file this claim based upon ownership interests therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

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 record includes a copy of the balance sheet for each of the Cuban corporations as of December 31, 1959 which claimant, WILLIAM P. GRIFFIN, states are the latest statements received from Cuba.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimants is that shown in these balance sheets. They show that Compania Cubana de Niples, S.A. had assets of \$38,186.00 and liabilities of \$20,107.32 or a net worth of \$18,078.68; and that the other corporation Compania Cubana de Tubos, S.A. had assets of \$63,058.56 and liabilities of \$53,943.83 or a net worth of \$9,114.73.

Accordingly, the Commission finds that claimants suffered losses in the amounts of \$4,519.67 and \$2,278.68 respectively, the value of their 25% stock interest in the two corporations, as the result of the taking of these companies by the Government of Cuba.

Lot in Barreras

The record establishes that this lot was in a development known as Valle Alegre, S.A. comprising 41 lots in Barreras, Havana.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting

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of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that claimants' real property in Barreras was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The record establishes that the lot measured about 2,165 varas and that its purchase price in November 1957 was \$3,247.74. Under the contract of sale the purchaser was required to pay 10% down and the balance in monthly payments of \$30.00. Claimant, WILLIAM P. GRIFFIN, states that he paid the monthly payments of \$30.00 for about two years. Accordingly, the Commission finds that he had paid in \$1,044.77 and that claimants suffered a loss in this amount as a result of the taking of this property by the Government of Cuba.

Household Furnishings

The record does not include a date when this personalty was taken by the Government of Cuba, but does include a statement that claimants had filed an Amended Return for 1960 with the Internal Revenue Service for this loss and that it was allowed. In the absence of evidence to the contrary the Commission finds that the taking occurred on October 14, 1960.

Claimant, WILLIAM P. GRIFFIN, has asserted his loss of household furnishings in the amount of \$2,619.47 which he states represents 1/2 the total value of the furnishings which he owned jointly with Sydney Winikoff.

Based on the evidence of record including a detailed listing of the personal property involved with estimated values which appear fair and

reasonable, the Commission finds that the value of claimants' personal property was \$2,619.47 and concludes that claimants suffered a loss in this amount within the meaning of the Act.

Summary

The Commission therefore finds that claimants suffered the following losses:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Stock interests	February 14, 1962	\$ 6,798.35
Lot	October 14, 1960	1,044.77
Furnishings	October 14, 1960	<u>2,619.47</u>
		\$10,462.59

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 as follows:

<u>FROM</u>	<u>ON</u>
WILLIAM P. GRIFFIN	
October 14, 1960	\$1,832.12
February 14, 1962	<u>3,399.18</u>
	\$5,231.30
ESTHER M. GRIFFIN	
October 14, 1960	\$1,832.12
February 14, 1962	<u>3,399.17</u>
	\$5,231.29

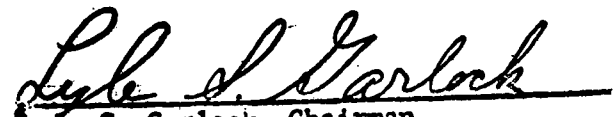
CERTIFICATIONS OF LOSS

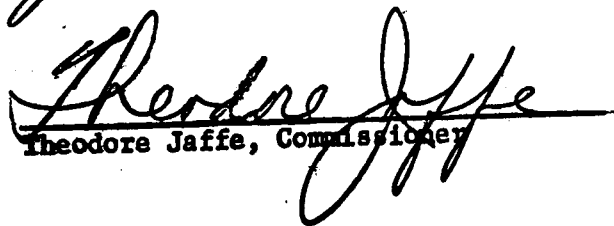
The Commission certifies that WILLIAM P. GRIFFIN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Thousand Two Hundred Thirty-One Dollars and Thirty Cents (\$5,231.30) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that ESTHER M. GRIFFIN 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 Five Thousand Two Hundred Thirty-One Dollars and Twenty-Nine Cents (\$5,231.29) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

MAY 26 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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 or 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 (1970).)

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