

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

IN THE MATTER OF THE CLAIM OF

RUTH M. MOLINA

Claim No. CU-0523

Decision No. CU 3653

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Rufus King, Esq.

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 \$196,000.00, was presented by RUTH M. MOLINA, based upon the asserted ownership and loss of stock interests in three Cuban corporations, and certain real and personal property in Cuba. 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 contains the original deed, dated June 23, 1954, evidencing the purchase of the real property in question; photographs of the property; affidavits from individuals having personal knowledge of the facts, attesting to the improvements made to said real property and the value thereof; tax receipts relating to the real property; affidavits from stockholders and officers of the three Cuban corporations, attesting to claimant's interests therein and the values thereof; an affidavit from a Cuban attorney who had personal knowledge of the facts, concerning claimant's ownership interests claimed herein and the values thereof; as well as statements made by claimant on September 26, 1960 at the office of the American Embassy in Havana, Cuba, concerning the claimed items of property.

On the basis of all the evidence of record, the Commission finds that claimant owned a 12-1/2% interest in each of three Cuban corporations which operated bus lines; namely, Omnibus de Placetas, S.A., Omnibus El Iris, S.A., and Autobuses de Santo Domingo, S.A., and that claimant owned a one-half interest in a two-story house and land in Havana, Cuba, and in the furniture and furnishings situated therein.

On June 15, 1961, the Cuban Government published in its Official Gazette a notice to the effect that the three said corporations were nationalized.

The record shows that these three corporations were organized under the laws of Cuba and that none of them qualifies as a corporate "national of the United States" defined by Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or of 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. In this type of situation, it has been held previously that a stockholder in such a corporation is entitled to file a claim based upon his ownership interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The Commission finds that as a result of the nationalization of the three Cuban corporations by the Government of Cuba claimant sustained a loss of property within the meaning of Title V of the Act on June 15, 1961.

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". The Commission has concluded that this phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property and that it is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider; i.e., fair market value, book value, going concern value, or cost of replacement.

Claimant has computed her claim on the basis of affidavits, executed in 1967 and 1968, which evaluated a 25% interest in the three Cuban corporations in the amounts of \$75,000.00, \$25,000.00, and \$50,000.00, respectively. The record, however, contains no balance sheets or other financial statements for any of the three corporations, and the said affidavits do not indicate the basis for the stated valuations. As noted above, the record contains claimant's statements made to officials of the American Embassy in Havana, Cuba on September 26, 1960. In a letter, dated March 8, 1968, to counsel, a copy of which is on file, claimant referred to the list of her property which she left at the American Embassy in Havana in 1960. That list contained details as to the values of the various items of property claimed herein.

Having carefully considered the entire record, the Commission finds that the valuations most appropriate to the properties claimed and equitable to the claimant are those set forth in claimant's statement to the American Embassy in Havana on September 26, 1960.

The said affidavits and claimant's statement of September 26, 1960 set forth values of \$40,000.00, \$20,000.00 and \$40,000.00 respectively for 25% interests in the corporations in question, and indicated that these valuations applied to the properties owned jointly by claimant and her husband, who was not a United States national on the date of loss and therefore cannot be an eligible claimant under the Act.

Accordingly, the Commission finds that the values of claimant's 12-1/2% stock interests each in Omnibus de Placetas, S.A., Omnibus El Iris, S.A., and Autobuses de Santo Domingo, S.A. were \$20,000.00, \$10,000.00, and \$20,000.00, respectively, on June 15, 1961, the date of loss.

With respect to the portion of the claim for the house, land and personal property situated in the house, claimant owned a one-half interest, as found above, and her husband owned the other one-half interest.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to claimant, who had left Cuba prior to that date, and that her interest in the house, land and personalty was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. The Commission further finds that as a result of said action claimant sustained a loss of property within the meaning of Title V of the Act. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Based upon the entire record, the Commission finds that the values of said real and personal property were \$40,000.00 and \$5,000.00, respectively, as set forth by claimant in her statement of September 26, 1960, and that claimant's interests in said property amounted to \$22,500.00 on December 6, 1961, the date of loss.

The Commission, therefore, concludes that claimant sustained a loss in the aggregate amount of \$72,500.00.

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 as follows:

<u>FROM</u>	<u>ON</u>
June 15, 1961	\$50,000.00
December 6, 1961	<u>22,500.00</u>
Total losses	<u>\$72,500.00</u>

CERTIFICATION OF LOSS

The Commission certifies that RUTH M. MOLINA 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 Seventy-two Thousand Five Hundred Dollars (\$72,500.00) 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 15 1969

*Leonard V. B. Sutton*  
Leonard V. B. Sutton, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*Sidney Feidberg*  
Sidney Feidberg, 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).)