

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

IN THE MATTER OF THE CLAIM OF

ADELE SZUCHMAN JURICK

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0526

Decision No. CU-6078

Counsel for claimant:

Weisler and Weisler
By Fred L. Weisler, Esq.
and David Levine, Esq.

Appeal and objections from a Proposed Decision entered February 24, 1971.
No hearing requested.

Hearing on the record held on September 22, 1971.

FINAL DECISION

Under date of February 24, 1971, the Commission issued its Proposed Decision certifying a loss in favor of claimant in the amount of \$73,424.99 plus interest. Other portions of the claim based upon property, including asserted interests in three Cuban business concerns, were denied for lack of proof. Subsequently, claimant objected to the denial of portions of her claim for interests in the three Cuban concerns, and submitted copies of stock certificates respecting one of them and an affidavit of May 3, 1971.

Upon consideration of claimant's objections and the new evidence in light of the entire record, the Commission now finds that claimant owned a 50% stock interest in Dress Fair, S.A. (Dress), a Cuban corporation which was taken by the Government of Cuba on October 30, 1961. The record shows that the assets of Dress aggregated \$100,000.00 on the date of loss. It appears from the record in the claim of claimant's sister, Claim of Rosita Dorf, Claim No. CU-1079, that Dress owed claimant's sister a debt of \$7,500.00.

Accordingly, the Commission finds that the value of Dress on October 30, 1961 was \$92,500.00. Therefore, claimant's interest therein had a value of \$46,250.00.

Based upon the entire record, including the new evidence, the Commission now finds that claimant owned a 50% stock interest in Cia. Comercial Adela Szuchman, S.A. (Comercial), a Cuban corporation which was taken by Cuba on October 31, 1961. Other than the copies of the stock certificates, claimant has submitted no further supporting evidence concerning the value of Comercial. While the amount of claimant's investment in Comercial as shown by the stock certificates has some value, it is insufficient to establish the net worth or value of Comercial on October 30, 1961, the date of loss. (See Claim of Warren and Arthur Smadbeck, et al., Claim No. CU-2465.) The Commission finds no valid basis for allowing this portion of the claim. Accordingly, the denial of this portion of the claim is affirmed.

Claimant's losses are now summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Residence	October 30, 1963	\$ 37,500.00
Apartment house	October 14, 1960	35,723.74
Automobile	October 30, 1963	201.25
Stock interest in Dress	October 30, 1961	<u>46,250.00</u>
	Total	<u>\$119,674.99</u>

The Commission reaffirms that interest shall be included, and as follows:

<u>FROM</u>	<u>ON</u>
October 14, 1960	\$35,723.74
October 30, 1961	46,250.00
October 30, 1963	<u>37,701.25</u>
Total	<u>\$119,674.99</u>


Accordingly, the Certification of Loss in the Proposed Decision of February 24, 1971 is set aside and the following Certification of Loss will be entered, and in all other respects the Proposed Decision as amended herein is affirmed.

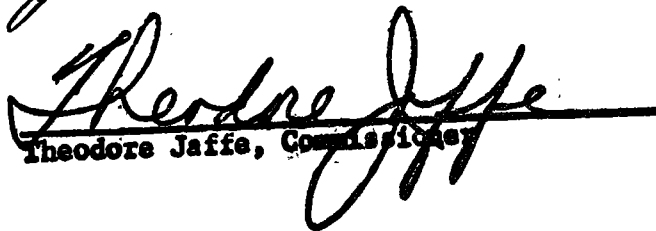
CERTIFICATION OF LOSS

The Commission certifies that ADELE SZUCHMAN JURICK 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 One Hundred Nineteen Thousand Six Hundred Seventy-Four Dollars and Ninety-Nine Cents (\$119,674.99) 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 Final
Decision of the Commission

SEP 24 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.

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

IN THE MATTER OF THE CLAIM OF

ADELE SZUCHMAN JURICK

Claim No. CU-0526

Decision No. CU - 6078

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Weisler and Weisler
By Fred L. Weisler, Esq.
and David Levine, Esq.

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 ADELE SZUCHMAN JURICK for \$332,850, based on real and personal property, and business interests 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 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 describes her loss as follows:

1. Residence at 509 Miramar Ave., Havana	\$ 75,000
2. Apartment house 114 Miramar Ave., Havana	85,000
3. Dress Fair, S.A.	100,000
4. Cia. Comercial Adela Szuchman, S.A.	40,000
5. LadiesWear Shop	20,000
6. House furnishings and personal effects	12,000
7. 1956 Plymouth automobile	850
	<u>\$332,850</u>

Pursuant to the community property law of Cuba, spouses own equal interests in property acquired during coverture, except that which is inherited or acquired by gift. The Commission is informed that claimant's spouse was not a national at the time of loss.

The record shows that claimant owned certain properties which were taken by the Government of Cuba, as further discussed below.

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.

IMPROVED REALTY

Residence:

The evidence of record, including affidavits and a report from abroad, establishes that claimant purchased an unimproved lot at 509 Miramar and thereafter constructed a residence thereon which was completed in 1952.

On December 6, 1961, the Cuban Government published its Law 989 which provided for confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who left the country.

Based on the foregoing, and the evidence of record, the Commission finds that this property was taken by the Government of Cuba on October 30, 1963, when claimant left Cuba. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

It appears that the lot was about 900 square meters, for which \$18,000 was paid. The building is described as having seven rooms, two rooms for servants, the usual facilities, a porch and a garage. The construction was effected at a cost of \$57,000. Considering the record and evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that this property had a value of \$75,000 on the date of loss and that claimant thereby sustained a loss of \$37,500.

Apartment House:

The record, including a report from abroad, reflects that this property was recorded in the name of claimant's spouse, then married.

On October 14, 1960 the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). The Commission finds that the apartment house 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 property consisted of two floors having a total of four apartments, each consisting of about six rooms, with monthly rentals of \$175. In 1956 a third floor, with two similar apartments, was added. On the basis of the record the Commission finds that this property had a value of \$85,000 but that it was encumbered by a mortgage in the amount of \$13,552.52. Accordingly, the equity in this property had a value of \$71,447.48 on the date of loss and claimant thus sustained a loss in the amount of \$35,723.74.

BUSINESS ENTERPRISES

Dress Fair, S.A.:

It appears from a stock certificate issued in 1951 that the authorized capital of this Cuban entity (established in 1925) was \$34,000 divided into shares of \$100 par value. The record discloses that 83 shares were issued to claimant herein on September 20, 1957 and 84 shares were issued to claimant on June 27, 1960. The record in the Claim of Rosita Dorf (Claim No. CU-1079) indicates that said Rosita Dorf, a United States national, sister of claimant herein, had inherited an interest in Dress Fair, S.A., from her mother, Leah Jurick, who died in 1958, and sold it to her sister in June 1960.

The record also discloses that 167 shares are in the name of claimant's spouse, issued in 1951. As it appears that claimant and spouse were already married in 1951, it follows that claimant has a one-half interest in the 167 shares issued to her spouse. The remaining six shares are not accounted for in these claims.

However, an affidavit of the former secretary of the company executed on April 29, 1968 states that he served until March 1, 1961; that the capital stock of the company is \$36,000 represented by 360 shares of \$100 par value. He continues that claimant's spouse held 180 shares, and that claimant held 180 shares which she inherited from her mother, and purchased from her only sister, Rosita Dorf. The discrepancy between the asserted 360 shares and the 340 indicated by the stock certificate is not explained.

With respect to the value of this corporation, it is noted that in 1965 claimant asserted the value as \$36,000, apparently the authorized stock value referred to by the former secretary. She asserts that on the date of loss, which appears to have been October 30, 1961, the value was \$100,000. This is concurred in by the secretary and by another affiant, acquaintance of claimant, who states that the shop owned by Dress Fair, S.A., operated on three floors, each about 25 meters by 100 meters, employed 29 persons, and paid rent of \$1,200 per month.

Claimant states, as of February 2, 1971, that to the best of her

knowledge the assets of Dress Fair, S.A., consisted of:

Cash in Royal Bank of Canada	\$25,000	
Stock Merchandise	55,000	
2 Air Conditioners installed	7,000	
30 sewing machines	3,000	
25 manikins	2,500	
2 cash registers and other equipment (not described)	1,500	
Remodeling of store	<u>6,000</u>	\$100,000

Further, it is asserted that there were no liabilities.

However, claimant's statements are not supported by documentation such as balance sheets; bank statements for \$25,000; an inventory of the stock; explanation of the asserted value of \$3,500 for each of two air conditioners; or detail of the other items. On the other hand, the Claim of Rosita Dorf (CU-1079) includes an item of \$7,500 for notes issued by claimant and accepted by Dress Fair, S.A.

The Commission holds that the record does not establish the net worth of Dress Fair, S.A., on the date of loss, nor that its assets were sufficient to cover its liabilities. Any other holding could only be speculative and untenable.

Cia. Comercial Adela Szuchman, S.A.:

Claimant asserts that she was the owner of all of the capital stock of Comercial Adela Szuchman, which operated a retail store called Adela Modas; that it operated from 1929 until taken by the Government of Cuba which the Commission finds was October 30, 1961. It appears that the authorized shares of this corporation may have been 200, with 99 issued to claimant and one other transferred to her spouse. The record is unclear on this point, although suggestions had been made to claimant through counsel.

She states that at the time of taking the store had ten employees, a value in excess of \$40,000 with no liabilities, and paid rent of \$500 per month. These assertions are corroborated by another affiant, who also made statements in connection with Dress Fair, S.A. However, these statements are not supported by evidence such as stock certificates or other documentation of ownership; balance sheets, or other records which would enable the Commission to find ownership, and a net worth which would be other than conjectural.

Ladies' Wear Shop:

Claim is also based on a Ladies Wear Shop said to have been operated by claimant's spouse from 1956 until the fall of 1961. It is said by the above-mentioned affiant, to have employed three persons, paid rent of \$350 a month and was valued at \$20,000. Here also, the record does not include probative evidence of ownership, or value such as balance sheets, or other records.

The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. Thus, the Commission finds that claimant has not met the burden of proof in that she has failed to establish with regard to the three items based on stock interests, ownership and value of rights and interests in property which was nationalized, expropriated, or otherwise taken by the Government of Cuba. Accordingly, the Commission is constrained to deny these portions of the claim and they are hereby denied.

PERSONALTY

House furnishings and personal effects:

Claim has been asserted for this item in the amount of \$12,000. It was suggested on October 10, 1967 that claimant submit an itemized list of all personal property indicating its age, condition and value; showing which items were owned by claimant entirely, which were owned by her spouse, and which were owned jointly. This suggestion was repeated by letter of April 19, 1968. She submitted an affidavit of an acquaintance who offered the opinion that the furnishings of the home were worth \$15,000. Under date of May 28, 1968, the Commission specifically suggested a list of the personalty be prepared indicating the date of purchase and price paid for each item.

Thereafter by affidavit of June, 1968, claimant described the furnishings, generally, by room, and stated that except for paintings the items were purchased new and cost in excess of \$15,000. The Commission by letter of June 28, 1968, brought to counsel's attention that its suggestions had not been met. The suggestions were repeated in letter of May 2, 1969.

Claimant then submitted her affidavit of February 2, 1971, which repeated the categorical listing, and states that the purchases were made with her own funds, after the residence was completed in 1952.

The record contains no substantiation of the assertion that the personalty was entirely the claimant's. Further, the various kinds of personalty generally would be subject to varying rates of depreciation, although some kinds of personalty would not be subject to any depreciation. There is no basis for the Commission to affix a cost value to each item, nor to speculate as to the number or kind of objects included in some of the general descriptions.

In the absence of evidence as to the value of the household furnishings, the Commission cannot certify the amount of a loss which would be other than conjectural. Accordingly, this item of claim is denied.

Automobile:

The Commission finds on the basis of the record that claimant and her spouse owned a 1956 Plymouth automobile; and that this was taken by the Government of Cuba when their home was taken on October 30, 1963.

The value of the vehicle is asserted as \$850, but the basis for this is not shown. Using the Guide of the National Automobile Dealers Association, the Commission finds that the value of such a vehicle in October 1963 was \$402.50, and concludes that claimant suffered a loss in this connection in the amount of \$201.25.

Recapitulation

Claimant's losses within the scope of Title V of the Act are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Value of 1/2 Interest</u>
Residence	October 30, 1963	\$37,500.00
Apartment house	October 14, 1960	35,723.74
Automobile	October 30, 1963	201.25
		<u>\$73,424.99</u>

- 8 -

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 so ordered, as follows:


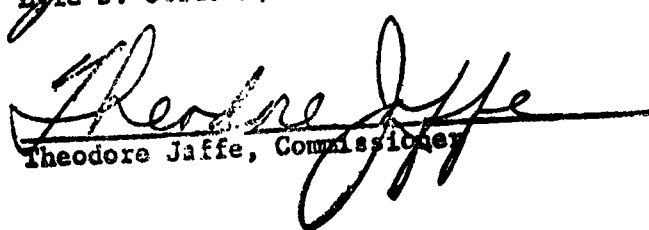
<u>FROM</u>	<u>ON</u>
October 14, 1960	\$35,723.74
October 30, 1963	37,701.25

CERTIFICATION OF LOSS

The Commission certifies that ADELE SZUCHMAN JURICK 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-Three Thousand Four Hundred Twenty-Four Dollars and Ninety-Nine Cents (\$73,424.99) with interest 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

FEB 24 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. 531.5(e) and (g), as amended, (1970).)