

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

IN THE MATTER OF THE CLAIM OF

DAVID STRICKLER

Claim No. CU -0559

Decision No. CU 6053

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 DAVID STRICKLER for \$13,569.00 based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant has been a national of the United States since his naturalization in 1953.

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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Claimant describes his loss as follows:

Furnishings of a 6-room apartment	\$ 6,240.00
Seaside lot in Mariel, Pinar del Rio	2,750.00
6 shares in Finca El Barranco, S.A.	<u>4,579.00</u>
Total	\$13,569.00

The record contains a copy of the contract of sale for the lot in Mariel and of a tax receipt for this property, a copy of a receipt for the asserted down payment for an assessment on 6 shares of subject stock, a copy of claimant's cancelled check for 4760 pesos dated April 18, 1955, claimant's affidavit relative to a detailed list of personalty in his apartment and a number of affidavits and statements from individuals with personal knowledge of the facts.

Based upon the evidence of record the Commission finds that claimant and, pursuant to the Community Property Law of Cuba, his wife, Camila Garcia Padron, an alien, each owned a 1/2 interest in the real and personal property subject of this claim. Inasmuch as claimant's wife is not a national of the United States, so much of this claim as is based on her interest is hereby denied.

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

The Commission finds, in the absence of evidence to the contrary, that the subject real and 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.

In our decision entitled the Claim of Ethel H. Berens (Claim No. CU-2313 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on December 6, 1961, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$2,309.5369.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant and his spouse had been the owners of 6 shares of stock in Finca El Barranco, S.A. since prior to December 6, 1961; and that claimant DAVID STRICKLER suffered a loss in the amount of \$6,928.61 within the meaning of Title V of the Act in this connection.

Lot in Mariel

The record includes a copy of the contract of sale referred to above which was entered into on July 23, 1954 and discloses that the purchase price of the unimproved lot was \$2,750.00, that it was located in the county of Quiebra Hacha, city of Mariel, province of Pinar del Rio and measured about 780 varas. Based on the evidence of record the Commission finds that on December 6, 1961, the date of loss, the value of this lot was \$2,750.00 and concludes that claimant suffered a loss in the amount of \$1,375.00 as a result of the taking of his 1/2 interest therein by the Government of Cuba.

Furnishings

The record includes claimant's affidavit in which he furnishes a detailed list of the household furnishings of his apartment at 458 Calle 2, Vedado which he states were purchased between 1955 and 1959. He further states that the prices he quotes represent cost less depreciation. Claimant has also submitted an affidavit from an individual who states that he visited claimant's apartment and that it was furnished with the items listed.

Based on the evidence of record the Commission finds that the sum of \$6,240.00 claimed for these furnishings was the fair and reasonable value thereof on December 6, 1961, the date of loss, and concludes that claimant suffered a loss in the amount of \$3,120.00 as a result of the taking of his 1/2 interest therein by the Government of Cuba.

Recapitulation

Claimant's losses are summarized as follows:

<u>Item</u>	<u>Amount</u>
Barranco stock	\$ 6,928.61
Lot in Mariel	1,375.00
Household furnishings	<u>3,120.00</u>
Total	\$11,423.61


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.

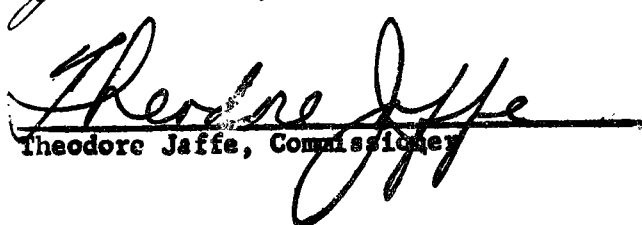
CERTIFICATION OF LOSS

The Commission certifies that DAVID STRICKLER 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 Eleven Thousand Four Hundred Twenty-Three Dollars Sixty-One Cents (\$11,423.61 ) with interest 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

**FEB 3 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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