

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

IN THE MATTER OF THE CLAIM OF

WINIFRED SWANK ALVAREZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0765

Decision No. CU 4380

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 WINIFRED SWANK ALVAREZ for \$36,900.00 based upon the asserted ownership and loss of improved real property and personal property.

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 contends that she lost an interest in mortgages, bank accounts, household furnishings, house and lot in Bayamo, Cuba and funds deposited with a private depository in Cuba.

Evidence of record includes copies of the mortgage contracts with claimant and her husband, a Cuban national who died on June 20, 1961, as mortgagees, records of payments made on the mortgages, contract for building a home on a lot at 5 Marti Street, Bayamo, Cuba, affidavits concerning the household furnishings and records of the deposited funds.

On the basis of the evidence, the Commission finds that claimant and her husband were the owners of mortgages as follows (the Cuban peso is determined to be equal to the United States dollar):

<u>Mortgagor</u>	<u>Balance due</u>
Francisco Horacio Socarras Norales et al	\$ 4,000.00
Dolores Medel	1,500.00
Pedro Blanco Mendoza	2,500.00
Celso Verdecia and Natalia Duharte	120.00
Luis Angel Milanes Rodriguez	1,000.00
Euripides Rios and Irais Gonzalez	1,000.00
Francisco Villanvicencio	2,740.00
Miguel Angel Miralles Cespedes	4,000.00
Total	<u>\$16,860.00</u>

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Article 30 of that law provided for the cancellation of all mortgages. The Commission finds that claimant and her husband owned mortgages totalling \$16,860.00 which were cancelled by the Government of Cuba on October 14, 1960, and since claimant's husband was a Cuban national at the time of loss, claimant sustained a loss within the meaning of Title V of the Act in the amount of \$8,430.00 on that date.

Concerning the portion of the claim based upon deposited funds, the record reflects that claimant had deposited the amount of 2,000 pesos with a private depository in Cuba on July 11, 1961. By Law 963, published in the Official Gazette on August 4, 1961, a currency exchange was ordered. The Commission has held that Law 963 and the implementation thereof with respect to currency outside the jurisdiction of the Cuban State constituted a taking of property by the Government of Cuba within the contemplation of Title V of the Act (see Claim of Betty G. Boyle, Claim No. CU-3473). Accordingly, the Commission finds that claimant sustained a loss of 2,000 pesos, which had a value of \$2,000.00 on October 14, 1961 within the meaning of Title V of the Act.

With regard to the remainder of the claim for real and personal property, the record reflects that claimant was the owner of a house and lot at Marti 5, barrio Cristo, Bayamo, Cuba and the personal property located therein as well as two savings accounts in the National Bank of Cuba in the total amount of \$300.00.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities, and bank accounts of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that claimant's real and personal property and bank account were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the record, the Commission finds that the total value of claimant's real property was \$10,000.00 and the personal property had a value of \$1,500.00 and concludes that claimant sustained a loss in the amount of \$11,800.00 within the meaning of Title V of the Act on December 6, 1961.

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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>
October 14, 1960	\$ 8,430.00
August 4, 1961	2,000.00
December 6, 1961	11,800.00

CERTIFICATION OF LOSS

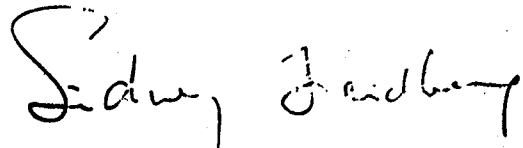
The Commission certifies that WINIFRED SWANK ALVAREZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Two Thousand Two Hundred Thirty Dollars (\$22,230.00) with interest 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

7 JAN 1970



Theodore Jaffe, Commissioner



Sidney Freidberg, 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).)