

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

IN THE MATTER OF THE CLAIM OF

CAROL BETTY SIEGLER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1727

Decision No. CU-6204

Counsel for claimant:

Shapiro, Fried, Weil & Scheer
By Herbert S. Shapiro, Esq.

AMENDED PROPOSED DECISION

This claim was denied by a Proposed Decision issued May 19, 1971. Thereafter, claimant, through counsel, submitted additional evidence. The matter having been re-examined, the Proposed Decision is amended as follows:

Claimant asserts a one-fourth interest in an apartment house at Calle 40A, Miramar, Havana, Cuba, said to have been acquired in 1953 during her marriage. It is stated the property cost \$201,000.00; that extensive improvements and alterations were made over the years and that the total value at the time of loss was \$250,000.00. Counsel submitted an affidavit from the attorney who handled all legal matters for claimant's family in Cuba and Escritura 422 concerning the property. The record also includes a report from abroad submitted by counsel in a related claim pertaining to the subject real property. The report from abroad states that claimant's father, Charles Shapiro, owned a 1/4 interest in the subject property and that the remaining 3/4 interest was owned by said father's brothers.

The Commission now finds that claimant was the owner of record of a 1/4 interest in an apartment house at Calle 40A, Miramar, Havana, Cuba and that this property was taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law.

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 property consisted of three separate multi-storied apartment houses averaging six modern two-bedroom apartments in each unit. The aforementioned Escritura reflects that the property was purchased on September 25, 1953 for \$202,000.00. Subsequently, improvements and renovations were made to the premises. The Commission finds that at the time of loss this property had a value of \$250,000.00. However, the record reflects that the property was encumbered with a mortgage in the amount of \$60,000.00 which must be deducted. Thus, the equity in the property was \$190,000.00.

Claimant was married at the time this property was acquired. Under the Community Property Law of Cuba, claimant's husband would have a 1/2 interest in claimant's share, or a 1/8 interest in the entire property. Claimant's husband never joined in the claim although the Commission had suggested proof of his United States nationality which was not submitted. Accordingly, the loss of claimant's spouse is not certifiable.

The Commission concludes that claimant suffered a loss in the amount of \$23,750.00 within the meaning of Title V of the Act for her 1/8 interest in the property.

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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.

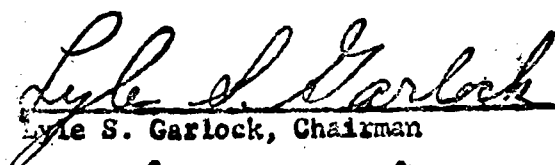
The following Certification of Loss will be entered and in all other respects the Proposed Decision, as amended herein, is affirmed.

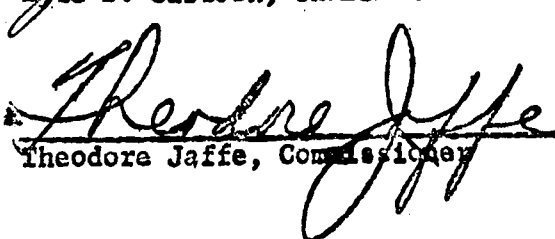
CERTIFICATION OF LOSS

The Commission certifies that CAROL BETTY SIEGLER 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-three Thousand Seven Hundred Fifty Dollars (\$23,750.00) with interest at 6% per annum from October 14, 1960 to the date of settlement.

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

AUG 4 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 Amended 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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IN THE MATTER OF THE CLAIM OF

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Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1727

Decision No. CU 6204

Counsel for claimant:

Shapiro, Fried, Weil & Scheer
By Herbert S. Shapiro, 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 CAROL BETTY SIEGLER in the amount of \$62,500.00 based upon an asserted ownership and loss of an interest in improved real 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 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, through counsel, asserts that she owned a one-fourth interest in an apartment house at Calle 40A, Miramar, Havana, Cuba, and that her interest was acquired in 1953, a time when she was married. It is said the property cost \$201,000.00, but that extensive improvements and alterations were made over the years and that the total value at the time of loss was \$250,000.00.

In support of the claim counsel has submitted an affidavit from the attorney who handled all legal matters for claimant's family in Cuba. The record also includes a report from abroad relating to the subject real property.

This report from abroad states that claimant's father, Charles Shapiro, owned a 1/4 interest in the subject property and that the remaining 3/4 interest was owned by said father's brothers.


On January 5, 1971 the Commission suggested, among other things, that counsel clarify the properties that were listed in the report from

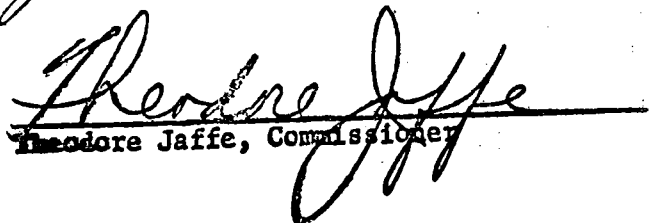
abroad. By Commission letter of March 23, 1971 counsel was advised that the Commission had received no reply to its letter of January 5, 1971 and that if the suggested evidence were not received within 30 days it might become necessary to determine this claim on the basis of the present record. No evidence has since been submitted.

The Commission finds that the evidence submitted is not persuasive in establishing claimant's ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. The burden of proof has not been met. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

MAY 19 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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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