

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

IN THE MATTER OF THE CLAIM OF

WILLIAM L. SNEAD

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1807

Decision No. CU 6154

Counsel for claimant:

Barry Binz, Esquire

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 \$579,000.00 was presented by WILLIAM L. SNEAD, based upon the asserted loss of real property located in Cuba. Claimant has been a national of the United States since his 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.

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 states that he was the owner of a one-half interest in a house in Havana, and the owner of three ranches named "Finca Las Damas", "Finca Suiza" and Finca "Ramblazon", and that all this property has been taken by actions of the Government of Cuba.

In support of his claim claimant submitted affidavits executed by Rafael Alberto Gonzalez, his son-in-law, and by Jorge Munoz, a former traveling salesman in Cuba; death certificates of his mother and sister; and descriptions of the properties upon which this claim is based. The Commission is making its findings of facts regarding the various items of the claim under separate headings, as set forth below.

House in Havana

Claimant asserts that he owned a one-half interest in a lot measuring about two acres at the corner of Calle 70 and Avenida 17 in the suburb of Marianao, in the city of Havana, improved with a two-story house, constructed of brick and tile; that he inherited the one-half interest from his sister Consuelo Snead y Nunez in 1963; and that the property had a value of \$38,000.00.

The record before the Commission reveals that the property at Calle 70 and corner of Avenida 17, in the section of Buenavista, Municipality of Marianao, measuring 900 square meters, is registered as lot No. 4082 in the name of Alberto Nunez de Villavicencio Joglar, a Cuban citizen, married to Consuelo Snead Reyes. The record further shows that Consuelo Snead Reyes died in Havana at the age of 63 on December 24, 1962, and that at the time of her death she was married to Mr. Nunez.

The evidence does not disclose whether Consuelo Snead Reyes at the time of the loss of the property and at the time of her death was a national of the United States; whether she died testate or intestate; whether she left children or other descendants; and whether inheritance proceedings were instituted in the local courts to settle her estate.

Under the Cuban community property law, property acquired by one or both spouses during marriage from funds of the marriage partnership, or by the industry, salary or work of either or both spouses, or from the fruits thereof, belong in equal parts to both spouses. However, upon the death of one of the spouses, the property descends, in the absence of a last will, to the children of the deceased or to their descendants, and if there are no children and descendants, to the parents of the deceased, and if there are no descendants and parents, to the brothers and sisters of the deceased. If brothers and sisters are entitled to the inheritance, the surviving spouse retains a life interest in one-half of the decedent's estate.

In the absence of evidence to show that Consuelo Snead Reyes was a national of the United States at the time of the loss; and that claimant inherited any part of her estate, the Commission is unable to determine that claimant inherited an interest in the property of Alberto Nunez de Villavicencio Joglar, and this portion of the claim must be and it is hereby denied.

"Finca Las Damas" and "Finca Suiza"

Claimant asserts that he was the owner of the ranch known as "Finca Las Damas" of an area of 51 Cuban caballerias with improvements thereon, and of the ranch known as "Finca Suiza" of an area of 14 Cuban caballerias of unimproved land. Both ranches are located in the area of Sancti Spiritus, in the province of Las Villas.

No documentary evidence has been submitted to show that claimant was, in fact, the owner of these two tracts of land, as asserted in the statement of claim.

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).)

The Commission made suggestions to claimant with respect to the evidence proper for submission of this portion of the claim and efforts have been made to obtain documentation from abroad. These efforts remained unsuccessful, and claimant has failed to substantiate ownership of the property. An affidavit of his son-in-law merely states that claimant operated these two ranches "as if they were his own".

The Commission finds that claimant has not met his burden of proof in that he has not established ownership for these two tracts of land. Accordingly, this portion of the claim also is denied.

"Finca Ramblazon"

The evidence before the Commission shows that prior to the year 1916 the landed estate located in the area of the town of Nuevas, Municipality of Ciego de Avila, Province of Camaguey, consisting of 46 caballerias and 30 square cordels (or approximately 1,528 acres) known as "Finca Ramblazon y El Hoyo de Ramones" was owned by Rafael Reyes Garcia married to Maria de la Concepcion Iznaga Garcia. Upon the death of Rafael Reyes Garcia, the property was adjudicated to Maria Reyes Iznaga, the mother of the claimant herein. The record shows that Maria Reyes Iznaga died intestate in Havana on March 26, 1951 leaving as survivors two children: WILLIAM L. SNEAD, the claimant herein and Consuelo Snead Reyes, claimant's sister, referred to above as wife of Alberto Nunez de Villavicencio Joglar.

The Commission finds that claimant inherited a one-half interest in the ranch known as "Finca Ramblazon"; that this property became subject to the Cuban Agrarian Reform Law of June 3, 1959; and that the ranch was effectively taken by the Government of Cuba on or about November 1, 1960.

The value of claimant's interest in this property remains to be ascertained.

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.

Claimant states that the Ramblazon ranch was worth \$235,000.00, but estimates made on the spot by official Cuban authorities appraised its value at \$119,000.00. Claimant's son-in-law states that claimant collected a yearly rental from this ranch in the amount of \$6,000.00.

On the basis of the record, the Commission finds that the "Finca Ramblazon" at the time of taking had a value of \$120,000.00 and that claimant's one-half interest therein was worth \$60,000.00.

For the reasons stated above, the Commission cannot determine that claimant acquired or inherited from his sister Consuelo any rights certifiable under the Act. Accordingly, the claim with respect to the one-half interest inherited by claimant's sister Consuelo is denied.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act

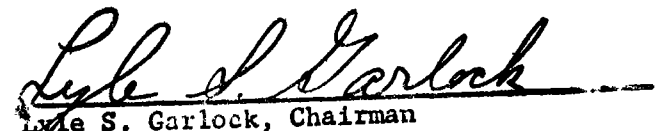
of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered.

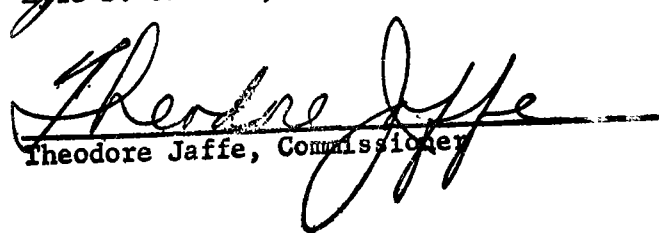
CERTIFICATION OF LOSS

The Commission certifies that WILLIAM L. SNEAD 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 Sixty Thousand Dollars (\$60,000.00) with interest thereon at 6% per annum from November 1, 1960 to the date of settlement.

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

APR 7 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. 101.5(e) and (g), as amended (1970).)

CU-1807