

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

IN THE MATTER OF THE CLAIM OF

JANE E. LLANO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1881

Decision No. CU
5931

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 JANE E. LLANO in the amended amount of \$37,766.00 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 birth.

Under Title V of the International Claims Settlement Act of 1949 [79 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) (1969).)

Claimant describes her loss as follows:

(1) Home, including furnishings, in Antilla, Oriente	\$20,000.00
(2) House in Sagua la Grande, Las Villas	5,000.00
(3) Wooden bungalow in Grande, Las Villas	4,000.00
(4) Bank account	4,766.00
(5) Insurance policy	<u>2,000.00</u>
	\$35,766.00

Based upon the entire record, including a passbook in the name of Bernard W. Llano, claimant's husband, in the Banco Nacional de Cuba, the Commission finds that claimant, pursuant to the community property law of Cuba owned a one-half interest in the bank balance.

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.

In the absence of evidence to the contrary, the Commission finds that claimant's interest in the above-described bank account of 4,766 pesos (which were on a par with United States dollars) was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$2,383.00 within the meaning of Title V of the Act, as the result of the taking of her one-half interest in this bank account by the Government of Cuba on December 6, 1961.

With regard to the portions of this claim based on the loss of the improved real properties listed under items (1), (2), and (3), claimant has submitted no evidence in support of these portions of her claim. At claimant's request, the Commission has attempted to obtain evidence to support her claim to the loss of her home in Antilla, but the report received is negative. In this connection claimant states that she had not furnished the accurate address and had not used the name by which she is known in Cuba. However, she has failed to reply to suggestions that she submit a new request for assistance or to list the furnishings in her home or to submit affidavits for consideration. In view of the foregoing, the Commission is constrained to and does deny these portions of the claim for failure of proof.

With regard to the remaining portion of this claim based on the asserted loss of an insurance policy, claimant has submitted a copy of her husband's policy with the Confederation Life of Canada, dated May 21, 1947, and a letter from this company, dated March 9, 1970, denying liability but advising that the proceeds of the policy were placed on deposit to her husband's credit, that it is earning interest of 4% per year, and that the balance in the account was 572.22 pesos on May 21, 1969. The letter further states that the company can settle the policy in Cuba in Cuban pesos, and is ready and willing to do so, but is unable under Cuban law to make settlement in the United States in dollars.

In view of the foregoing, the Commission finds that the evidence does not establish that the proceeds of the insurance policy were taken by the Government of Cuba or that this claimant suffered any loss thereby. This portion of the claim is therefore 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.

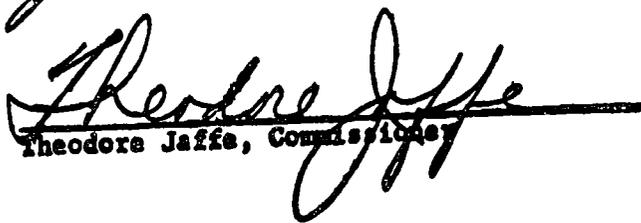
CERTIFICATION OF LOSS

The Commission certifies that JANE E. LLANO 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 Two Thousand Three Hundred Eighty-three Dollars (\$2,383.00) with interest thereon 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

NOV 4 1970


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, 32 Fed. Reg. 412-13 (1967).)