

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

IN THE MATTER OF THE CLAIM OF

MARIA ELENA DEL CALVO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2042

Decision No. CU 5923

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 MARIA ELENA DEL CALVO for \$35,538.00 based upon the asserted ownership and loss of an interest in real property and a share interest in a Cuban corporation. Claimant has been a national of the United States since her naturalization in 1958.

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.

Claimant describes her loss as follows:

1/3 interest in house in Marianao	\$ 2,000.00
41 shares in Cia. Agricola de Guanahacabibes 1916, S. A.	<u>33,538.00</u>
	\$35,538.00

House in Marianao

Based upon the entire record, including two reports from abroad, the Commission finds that claimant owned a 1/3 interest in a house at #2611, Avenue 33, Marianao, Havana, Cuba.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that claimant's interest in real property in Marianao was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

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 record includes, in support of the claimed values, a description of the house as a 1-story family house with about 8 rooms and usual facilities located on Avenue 33 in East Marianao and a report from abroad which states that it was purchased in February, 1948 for \$6,000.00 and is registered in the names of claimant and her two sisters in equal parts.

Based on the evidence of record, the Commission finds that on October 14, 1960, the date of loss, the improved realty had a value of \$6,000.00, and concludes that claimant suffered a loss within the scope of Title V of the Act, in the amount of \$2,000.00 for her 1/3 interest in the property as a result of the taking of this property on October 14, 1960.

Compania Agricola de Guanahacabibes 1916, S. A.

The record includes two stock certificates of Cia. Agricola de Guanahacabibes 1916, S.A. issued to claimant in 1953 and 1958, for a total of 41 shares. Additionally, claimant has submitted a list of the shareholders which discloses that claimant also owns a one-third interest in two more shares of this company. This is confirmed by a Notarial document of record.

Accordingly the Commission finds that claimant owned 41 shares of stock in Compania Agricola de Guanahacabibes 1916, S.A. a Cuban corporation hereinafter called the Cuban corporation and one-third of two more shares in said corporation.

Based upon an affidavit of the secretary of the Cuban corporation, the Commission finds that the corporation was taken by the Government of Cuba on July 16, 1959.

Since the corporation was organized under the laws of Cuba, it does not qualify as a corporate "national of the United States" within the meaning of Section 502(1)(B) of the Act, supra. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The corporation secretary has affirmed that the Cuban corporation owned a ranch called "San Rafael" located in the county of Guane, Province of Pinar del Rio, which consisted of 161,465 acres and that it was appraised at \$1,800,000.00 in August, 1959 by The Institute of Agriculture Reform. A report from abroad confirms that the corporation's capital was represented by 2,200 shares having a par value of \$100 each. It appears that there are no balance sheets of the Cuban corporation available.

Upon consideration of the entire record, the Commission finds that the value per share of the Cuban corporation was \$818.1818 and that claimant suffered a loss in the amount of \$34,090.91, the value of her stock interest in the Cuban corporation, as a result of the taking of the corporation by the Government of Cuba.

Summary

The Commission therefore finds that claimant suffered the following losses within the meaning of Title V of the Act:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
House	October 14, 1960	\$ 2,000.00
Stock interest	July 16, 1959	<u>34,090.91</u>
		\$36,090.91

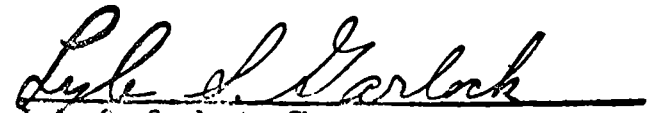
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

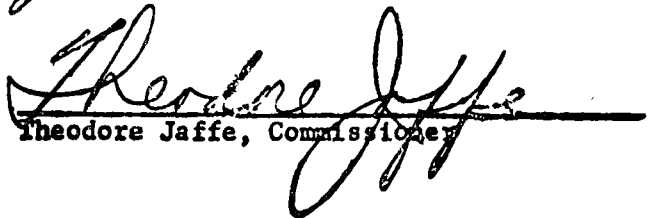
CERTIFICATION OF LOSS

The Commission certifies that MARIA ELENA DEL CALVO 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 Thirty-six Thousand Ninety Dollars and Ninety-one Cents (\$36,090.91) 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

OCT 28 1970


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

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