

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

IN THE MATTER OF THE CLAIM OF

HORTENSE TURULL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2054

Decision No. CU 6208

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$34,000.00, was presented by HORTENSE TURULL based upon the asserted loss of certain personal property in Cuba. Claimant has been a national of the United States at all times pertinent to this claim.

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 530(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 503(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 asserts the following losses:

1/3 interest in checks and cash inherited from estate of Thomas F. Turull, Deceased	\$ 9,000.00
Life insurance policy	<u>25,000.00</u>
Total	<u>\$34,000.00</u>

Checks and Cash

On the basis of evidence of record in this claim (Exhibits 2, 11, and 12) and the record in the Claims of Evelyn T. Bates, et al., Claim Nos. CU-2052, CU-2053, CU-2036 and CU-2055, the Commission finds that claimant inherited from her late husband on March 14, 1961 a 1/3 interest in certain bank drafts issued by the Royal Bank of Canada, Havana Branch, Cuba, in the aggregate amount of \$16,000.00. The claims of claimant's two daughters, Evelyn T. Bates and Gladys T. Johansen, who each inherited a 1/3 interest in the drafts are the subjects, inter alia, of Claim Nos. CU-2052 and CU-1916, respectively.

On December 6, 1961, the Cuban Government published Law 989, which effected the confiscation of bank deposits and other property of persons who had left the country. The Commission finds that this law applied to claimant, and in the absence of evidence to the contrary, the Commission further finds that the funds were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 Semiann. Rep. 55 [July-Dec. 1966]; and Claim of Ana Maria Lopez Gutierrez, Claim No. CU-0197.)

Accordingly, it is concluded that claimant sustained a loss in the amount of \$5,333.34.

It is also asserted that claimant inherited from her late husband a 1/3 interest in \$11,000.00 in Cuban currency that had been delivered to a resident of Cuba for safekeeping. No further evidence has been submitted in support of this portion of the claim. Moreover, this very issue was considered by the Commission in connection with the Claim of Evelyn T. Bates, Claim No. CU-2052, and the Commission concluded that that claimant had failed to sustain the burden of proof. Considering the record in this claim and the record in Claim No. CU-2052, the Commission finds no valid basis for allowing this portion of the claim based upon a 1/3 interest in the Cuban currency. Therefore, this portion of the claim is denied.

Life Insurance Policy

Claimant asserts the loss of \$25,000.00 based upon a life insurance policy issued by Confederation Life Association, a Canadian carrier (Exhibits 3 and 4). It appears from the evidence of record (Exhibit 3) that the policy covered the life of Thomas F. Turull and that claimant was the beneficiary. Upon the death of the insured on March 14, 1961, claimant filed a claim with the insurance carrier.

The reply of the carrier (Exhibit 3) indicates that the policy was issued in United States currency, but was payable in Havana, Cuba, and that pursuant to the laws of Cuba the policy was payable in Cuban pesos on a par with the amount of the policy in United States dollars. On that basis, the carrier tendered payment in Cuban pesos in Cuba.

The Commission finds that claimant has failed to meet the burden of proof with respect to the portion of the claim based on the life insurance policy in that the evidence of record does not establish that any proceeds of the policy were taken by the Government of Cuba. Accordingly, this item of claim 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

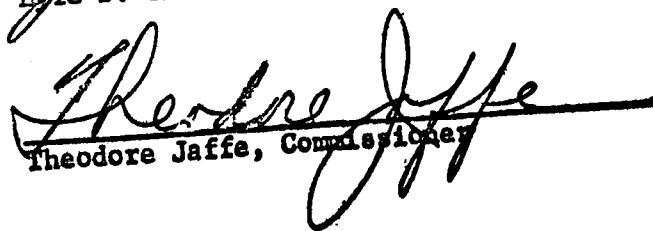
The Commission certifies that HORTENSE TURULL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of

Five Thousand Three Hundred Thirty-Three Dollars and Thirty-Four Cents (\$5,333.34) with interest 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

JUN 2 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 notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

CU-2054