

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

IN THE MATTER OF THE CLAIM OF

ANN MARQUEZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2110

Decision No. CU -5645

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 \$80,249.74, was presented by ANN MARQUEZ based upon the asserted 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 [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 asserts the following losses on her own behalf and as heir of her husband, Anthony Marquez, a national of the United States from September 11, 1928 until his death on December 4, 1966:

Real property	\$ 6,925.00
2 Nash automobiles	5,000.00
Hose assembling and distributing business	63,324.74
Books	1,000.00
Clothing	1,000.00
Furniture, appliances and linens	<u>3,000.00</u>
Total	<u>\$80,249.74</u>

The record includes copies of deeds; reports from abroad; a copy of an automobile registration filed with Cuban authorities; and claimant's statements concerning this claim. On the basis of the foregoing, the Commission finds that claimant and her late husband each owned a one-half interest in certain real and personal property in Cuba, discussed in detail below.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to claimant and her late husband, who had left Cuba prior to that date, and that their property interests in Cuba were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. The Commission further finds that as a result of said action claimant and her late husband sustained losses of property within the meaning of Title V of the Act. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The record shows that claimant's late husband died in Puerto Rico on December 4, 1966. Upon his death, his one-half interest in the properties in Cuba were inherited by his three children in equal shares subject to a life estate in favor of claimant in one-third of the deceased's properties.

On several occasions the Commission suggested to claimant that her three children request leave to join the claim and submit proof of their United States nationality inasmuch as the record shows that they owned interests in the properties herein. No response has been received to date. Accordingly, only the interests owned and inherited by claimant will be considered for the purpose of this decision.

#### Real Property

The evidence establishes and the Commission finds that claimant owned a one-half interest in 3 lots in Cuba; namely, in Marianao, Havana, in Mariel, Pinar del Rio, and in Santa Fe, Isle of Pines. Claimant has asserted a loss of \$6,925.00 based upon the costs of acquisition of the lots.

The record shows that the lot in Marianao was acquired in 1958 at a cost of 4,400 pesos, equivalent to \$4,400.00, that the lot in Mariel cost \$2,250.00, and that the lot in Santa Fe cost \$175.00.

On the basis of the entire record, the Commission finds that the aggregate value of the three lots on December 6, 1961, the date of loss, was \$6,825.00. Therefore, claimant's one-half interest therein had a value of \$3,412.50. Claimant also owned a life estate in a one-third share of her late husband's estate. On the date of loss, claimant was 47 years of age.

With respect to the values of life estates and remainder interests, the Commission has adopted the Makehamized mortality table used by the United States Treasury Department in connection with the collection of gift and estate taxes. (See Claim of Richard Franchi Alfaro and Anna Alfaro, Claim No. CU-0048, 1967 FCSC Ann. Rep. 71.) Pursuant to that method of valuation, a life estate in property of a person 47 years of age is valued at 55.436% of the estate. Since the encumbered properties had an aggregate value of \$1,137.50 (1/3 of \$3,412.50), the value of claimant's life estate was \$630.58 on December 6, 1961, the date of loss.

Accordingly, the aggregate value of claimant's interests in the 3 lots was \$4,043.08.

Automobiles

Claimant asserts the loss of \$5,000.00 based upon 2 Nash automobiles, one being a 1957 model and the other a 1958 model. On the basis of a copy of an official registration of title form, the Commission finds that claimant and her late husband each owned a one-half interest in a 1958 Nash Rambler which they had acquired on October 8, 1960.

The record fails to disclose the price paid for the automobile. Based upon information concerning the value of such an automobile on the date of loss and in the absence of evidence to the contrary, the Commission finds that the automobile had a value of \$1,000.00 on December 6, 1961. Therefore, claimant's interests therein had an aggregate value of \$592.39, representing her one-half interest and her life estate in a one-third share of her late husband's interest.

The record contains no evidence to establish that claimant and her late husband also owned a 1957 automobile. The Commission's suggestions that evidence be submitted to support this portion of the claim have remained unanswered.

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).)

The Commission finds claimant has failed to sustain the burden of proof with respect to the portion of the claim based upon a 1957 automobile. Accordingly, this portion of the claim is denied.

Hose Assembling and Distributing Business

Claimant asserts the loss of \$63,324.74 based upon a hose assembling and distributing business in which her late husband was engaged. The record includes a copy of a letterhead used by claimant's late husband in that business and a list of the assets thereof.

It appears from claimant's statements that the business was owned by Distribuidora Industrial Anmar, S.A., which was assertedly owned entirely

by claimant's late husband. Claimant has described the business in general, but has submitted no evidence to support her statements with respect to this portion of the claim.

The Commission suggested the submission of evidence establishing sole ownership of the corporation, as asserted by claimant, and the net worth or value of the corporation on the date of loss. It was also suggested that claimant submit her late husband's notebook in which the values of the corporation's assets were assertedly set forth, having been "taken from a balance sheet of June 30, 1960." However, claimant failed to respond.

The Commission finds the evidence insufficient to warrant favorable action with respect to the portion of the claim based upon a stock interest in a corporation. Accordingly, this portion of the claim is denied.

Books, Clothing, Furniture, etc.

Claimant asserts the loss of \$1,000.00 for books, \$1,000.00 for clothing, and \$3,000.00 for furniture, appliances and linens. She states that said properties were maintained in a rented home in Marianao, Havana, Cuba.

The record includes a general list of the personal property, but fails to show the dates of acquisition thereof other than for 2 sets of books, and fails to indicate the costs thereof. On several occasions, it was suggested that claimant furnish appropriate details in these respects. To date no such evidence has been filed.

The Commission finds that claimant has failed to sustain the burden of proof with respect to the portion of the claim based on books, clothing, furniture, appliances and linens. Accordingly, this portion of the claim is denied.

Claimant's losses are summarized as follows:

<u>Item of Property</u>	<u>Amount</u>
Real Property	\$ 4,043.08
Automobile	<u>592.39</u>
Total	\$ 4,635.47

The Commission has decided that in certification of losses 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

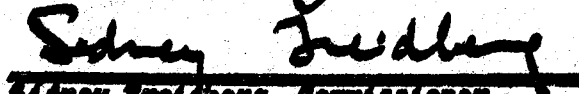
The Commission certifies that ANN MARQUEZ succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Thousand Six Hundred Thirty-five Dollars and Forty-seven Cents (\$4,635.47) 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

AUG 6 1970

  
Joseph S. Carlack, Chairman

  
Marcelino Jasso, Commissioner

  
Sidney Trolldenier, 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).)

CU-2110