

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

IN THE MATTER OF THE CLAIM OF

EMILIO J. GONZALEZ
and
JOSEFINA (TERRY) FISHER

Claim No. CU-2487

Decision No. CU -5891

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

Under date of October 14, 1970, the Commission issued its Proposed Decision, dismissing the claim filed on behalf of Terry (Josefina) Fisher for failure to indicate her desire to proceed with the claim that had been presented on her behalf by her mother. Subsequently, this claimant informed the Commission that she had been under the impression that her brother, EMILIO J. GONZALEZ, had been prosecuting the claim on behalf of both claimants; and that she wanted her interest to be considered. It further appears that this claimant's name is JOSEFINA (TERRY) FISHER not Terry (Josefina) Fisher, as originally appeared.

Upon consideration of the entire record, it is

ORDERED that the Proposed Decision be amended as follows:

The Commission now finds that JOSEFINA (TERRY) FISHER owned a one-half interest in a house and lot at 74th Street, Marianao, Havana, Cuba. The Commission further finds that on October 14, 1960, the date when said real property was taken by the Government of Cuba, the property had a value of \$12,000.00. It is therefore concluded that JOSEFINA (TERRY) FISHER sustained a loss within the meaning of Title V of the Act in the amount of \$6,000.00.

There is still no evidence of record concerning the existence of an asserted bank account.


Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

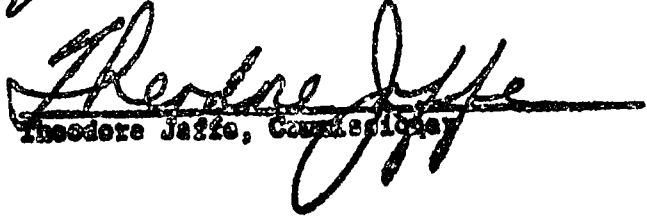
CERTIFICATION OF LOSS

The Commission certifies that JOSEFINA (TERRY) FISHER 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 Six Thousand Dollars (\$6,000.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

NOV 4 1970


Lyle S. Carllock, 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 Amended 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. 31.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

CU-2487

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

IN THE MATTER OF THE CLAIM OF

EMILIO J. GONZALEZ
and
TERRY (JOSEFINA) FISHER

Claim No. CU -2487

Decision No. CU
5391

Under the International Claims Settlement
Act of 1949, as amended

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 \$20,800.00, was presented on behalf of claimants by their mother, based upon the asserted ownership and loss of certain real property and a bank account in Cuba. Claimants have been nationals of the United States since birth on August 7, 1946 and December 8, 1948, respectively.

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.

Upon receipt of the claim as originally presented, the Commission communicated with claimants at the addresses set forth by their mother. Both communications were returned because the addresses apparently were incorrect. Subsequently, EMILIO J. GONZALEZ wrote to the Commission and indicated his proper address. A letter to claimants' mother brought the response that since her children were of age and since she had transferred to them all available documents in support of the claim, the Commission should communicate with claimants for any further information. At the same time, she informed the Commission of claimants' addresses. The address shown for EMILIO J. GONZALEZ was the one he had used in his letter to the Commission.

The Commission directed letters to both claimants at their respective addresses, suggesting the submission of proof respecting the value of the improved real property in question and the assertion that TERRY (JOSEFINA) FISHER owned a bank account having a value of \$800.00. EMILIO J. GONZALEZ' earlier response included an official claim form and a request that the Commission attempt to obtain information from abroad, and otherwise indicated his desire to proceed with his claim. However, TERRY (JOSEFINA) FISHER never communicated with the Commission.

The Commission's letter to TERRY (JOSEFINA) FISHER was returned by the Post Office Department with the notation: "Moved. Left no forwarding address." The Commission wrote to EMILIO J. GONZALEZ and suggested the submission of supporting evidence, as indicated in previous correspondence, and asked that he inform the Commission of his sister's current address.

The file is completely devoid of any indication that TERRY (JOSEFINA) FISHER wishes to proceed with her claim. A communication to her remains unanswered. Inasmuch as she has not contacted the Commission, it is concluded that no claim has been filed by her. Accordingly, it is

ORDERED that so much of the claim as was presented on behalf of TERRY (JOSEFINA) FISHER be and it is hereby dismissed.

The record includes affidavits and a report from abroad, on the basis of which the Commission finds that EMILIO J. GONZALEZ owned a one-half interest in a house and lot at 74 Street, Marianao, Havana, Cuba.

The Commission finds that the property was within the purview of the Urban Reform Law, published in the Cuban Official Gazette on October 14, 1960. In the absence of evidence to the contrary, the Commission finds that the property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

EMILIO J. GONZALEZ, hereafter called the claimant, asserts in the claim he filed that the property had a value of \$20,000.00. The record includes an affidavit, dated April 24, 1967, which was submitted by claimant's mother, in which the affiant merely states that he was familiar with the property and that it was worth \$20,000.00. No details or other basis for this statement appear in his affidavit.

When the claimant was asked for a description of the property for the purpose of making an inquiry abroad, he stated that the house had 10 rooms. The report from abroad indicates that the value of the property was \$12,000.00. The claimant was informed thereof and it was suggested that he submit evidence in support of his asserted valuation. Such evidence has not been received.

Upon consideration of the entire record and in the absence of more convincing evidence, the Commission finds that the value of the improved real property on October 14, 1960, the date of loss, was \$12,000.00. Therefore, the claimant's one-half interest therein had a value of \$6,000.00.

It is noted that the claimant has not asserted any interest in the said bank account, and it appears that this account assertedly belonged to TERRY (JOSEFINA) FISHER. Moreover, the Commission notes that the claimant stated in his letter of January 11, 1970 that he has no evidence to support that portion of his sister's claim.

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


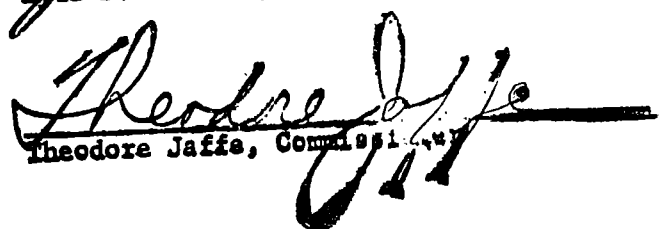
annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that EMILIO J. GONZALEZ 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 Six Thousand Dollars (\$6,000.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

OCT 14 1970


Lyle S. Galloway,

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).)