

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

IN THE MATTER OF THE CLAIM OF

FERNANDO CABEZA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2694

Decision No. CU 5011

Counsel for claimant:

Daisy Richards Bisz
Attorney at Law

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 FERNANDO CABEZA and his wife, Willie Mae Cabeza, for \$50,000.00 based upon the asserted ownership and loss of certain improved real property in Cuba. On February 22, 1968 claimant's wife, a United States national since birth, died leaving claimant as successor to her interest in this claim. Claimant has been a national of the United States since his naturalization in 1941.

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 his loss as follows:

Land at Calle Marti No. 34-1/2, Sagua La Grande, Cuba	\$30,000.00
Commercial building thereon	<u>20,000.00</u>
	\$50,000.00

Based upon the entire record, including the original agreement to rescind a lease of the property subject of this claim, dated June 13, 1957; affidavits of individuals including claimant's sister; and claimant's affidavit, the Commission finds that claimant owned the property in question.

Claimant states that he received a long distance call from his attorney in Cuba on December 29, 1959 advising him that the Cuban Government needed his building for the militia and wanted his agreement to use it for six months, rent free. Claimant said he agreed and authorized his attorney to turn over the key which he did on December 31, 1959, the militia moving in the following day. When claimant asked them to move on July 1, 1960 he says they refused and have occupied the building since then, rent free.

The Commission finds, in the absence of evidence to the contrary, that subject real property was taken by the Government of Cuba on July 1, 1960.

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 improved realty as a 3-1/2-story commercial building of concrete block construction with steel reinforced foundation and pillars on a lot of about 237 meters. In addition, there is a postcard picture and a copy of a photograph of the building and the aforementioned affidavits.

Based on the evidence of record the Commission finds that the value of the building including the land was \$50,000.00 on the date of loss, and concludes that claimant therefore suffered a loss in this amount within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on July 1, 1960.

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.

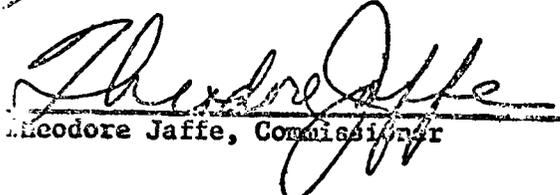
CERTIFICATION OF LOSS

The Commission certifies that FERNANDO CABEZA 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 Fifty Thousand Dollars (\$50,000.00) with interest thereon at 6% per annum from July 1, 1960 to the date of settlement.

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

JUN 17 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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).)