

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

IN THE MATTER OF THE CLAIM OF

A. F. CUBILLAS
AND
BETTY E. CUBILLAS

Claim No. CU -2957

Decision No. CU -3942

Under the International Claims Settlement
Act of 1949, as amended

ORDER AND AMENDED PROPOSED DECISION

By Proposed Decision dated October 1, 1969, the Commission certified a loss to A. F. CUBILLAS in the amount of \$10,475.00 for his one-half interest in a bank account taken by Cuba.

Thereafter additional evidence was received in this claim and the record now establishes that his wife, BETTY E. CUBILLAS, the owner of the other half of the property in question is a national of the United States by birth. Accordingly, it is

ORDERED that the Proposed Decision be and the same is hereby amended to read as follows:

Claimant's name is corrected to read A. F. CUBILLAS and BETTY E. CUBILLAS is added as claimant herein.

On the basis of the evidence of record, the Commission finds that claimant, BETTY E. CUBILLAS, has been a national of the United States since her birth in the United States.

The Commission further finds that claimant, BETTY E. CUBILLAS, is and since prior to December 6, 1961, has been the owner of a one-half interest in the property in question described in said Proposed Decision.

Accordingly the following additional certification of loss will be entered, and in all other respects the Proposed Decision is affirmed:

CERTIFICATION OF LOSS

The Commission certifies that BETTY E. CUBILLAS 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 Ten Thousand Four Hundred Seventy-Five Dollars (\$10,475.00) with interest at 6% per annum from December 6, 1961 to the date of settlement.

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

NOV 14 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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 Order and 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. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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

IN THE MATTER OF THE CLAIM OF

A. F. CUBRILLAS

Claim No. CU- 2957

Decision No. CU 3942

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, for \$35,050.00 was presented by A. F. CUBRILLAS based upon the asserted loss of a bank account and 2 mortgages in Cuba. Claimant has been a national of the United States since his naturalization on May 12, 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 contends that he has lost a bank account in Cuba having a balance of 20,950 pesos. The record establishes that claimant had a balance of 20,950 Cuban pesos on deposit with the Banco Agricola E Industrial of Mayari, Cuba; but in accordance with the Community Property Law of Cuba, his wife, Betty E. Cubillas was the owner of one-half interest in this bank account.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these enactments and resolutions affect the account of the claimant in Claim No. CU-2957.

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were

some minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-2957 in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. From the foregoing, the Commission finds that the above described bank account, totalling 20,950 pesos, was taken by the Government of Cuba on December 6, 1961. (See In the Matter of the Claim of Floyd W. Auld, FCSC Claim No. CU-0020).

However, since claimant's wife has not asserted a claim for the loss of her one-half interest in this bank account, the claim asserted herein for the loss of the bank account, to the extent of her one-half interest therein, is hereby denied.

Further, the Commission finds that on December 6, 1961, claimant's half interest in the 20,950 pesos had a value of \$10,475.00 and that he suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of the bank account by the Government of Cuba as of December 6, 1961.

Claim is also made for two mortgages secured by property in Oriente, Cuba for \$11,100.00 and \$3,000.00 respectively. In response to the Commission's suggestions as to the type of evidence appropriate to establish this portion of the claim, claimant stated he was unable to obtain any documentary evidence or affidavits to support this portion of the claim.

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) (Supp. 1967).)

CU-2957

While the Commission appreciates the difficulties a claimant may have in documenting a claim, nevertheless the record must include evidence of probative value on which the Commission may make a favorable determination. The Commission therefore finds that claimant has not met the burden of proof with regard to this portion of the claim in that he has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this portion of the claim and it is hereby denied

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 the Claim of Lisle Corporation, ECSC Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that A. F. CUBRILLAS 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 Ten Thousand Four Hundred Seventy-Five Dollars (\$10,475.00) 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

OCT 1 1969

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

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