

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

IN THE MATTER OF THE CLAIM OF

ANGEL L. PIEDRA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3125

Decision No. CU -6138

Counsel for claimant:

Merwin E. Taylor, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision issued March 29, 1971 the Commission denied this claim in its entirety since the evidence submitted was of insufficient probative value to establish claimant's ownership of unimproved real property and personal property assertedly taken by the Government of Cuba. Claimant, through counsel, has submitted additional evidence.

Based on the entire record the Commission now finds that claimant and his wife were the owners of certain unimproved real property and personal property, consisting of boats, an automobile and household furnishings and effects, hereinafter more fully described.

Pursuant to the community property law of Cuba, spouses have equal interests in property acquired during coverture, except for property inherited or that acquired by gift. Claimant's spouse is not a national of the United States and any interest she might have in the property subject of this claim cannot be considered, and claimant has limited his claim to his interest.

On December 6, 1961, the Cuban Government published its Law 989, which provided for confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who left Cuba. The record shows that claimant and his family left Cuba on March 25, 1966.

Based on the foregoing, the Commission finds that the subject real and personal property was taken by the Government of Cuba on March 25, 1966, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Based on the evidence of record, and evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that claimant's one-half interest in the unimproved real properties had the following values on the date of loss:

	<u>Deed</u>	<u>Value</u>
No. 70 - 448	square meters	\$ 3,114.95
No. 79 - 547.37	square meters	4,567.20
No. 133 - 536	square meters	2,608.76
No. 15 - 480	square meters	2,336.25
No. 16 - 480	square meters	2,336.25
No. 4 - 480	square meters	<u>2,336.25</u>
		\$ 17,299.66

Claimant has itemized the furniture and furnishings giving a total value of \$4,630.00. Examination has been made of these values in comparison with similar properties in claims before the Commission and it is found that the asserted value of \$4,630.00 is fair and reasonable and claimant's one-half interest had a value of \$2,315.00.

However with respect to the two boats one valued at \$500.00 for a one-half interest, and one valued wholly at \$500.00, the record does not afford a basis for detailed comparison and the Commission finds the depreciated values on March 25, 1966 to have been \$250.00 (one-half interest) and \$250.00 (whole interest), claimant's aggregate loss in these respects being \$250.00.

With respect to the 1955 Studebaker Champion valued by claimant at \$600.00, the Commission finds this asserted value not established but that the residual value in 1966 was \$130.00, claimant's interest being \$65.00.

Accordingly, claimant's losses within the scope of Title V of the Act had a value of \$19,929.66 on the date of loss.

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.


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

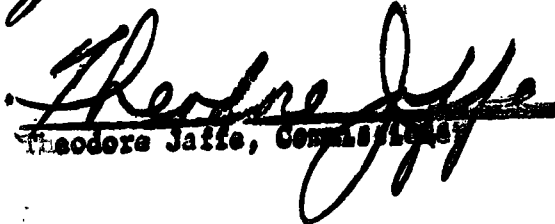
CERTIFICATION OF LOSS

The Commission certifies that ANGEL L. PIEDRA 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 Nineteen Thousand Nine Hundred Twenty-Nine Dollars and Sixty-Six Cents (\$19,929.66) with interest thereon at 6% per annum from March 25, 1966 to the date of settlement.

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

JUL 21 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 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 (1970).)

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IN THE MATTER OF THE CLAIM OF

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Under the International Claims Settlement
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Claim No. CU-3125

Decision No. CU 6138

Counsel for claimant:

Merwin E. Taylor, Esq.

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 amended amount of \$20,414.66, was presented by ANGEL L. PIEDRA and is based upon the asserted loss of a one-half interest in unimproved real property and personal property. Claimant has been a national of the United States since his naturalization on December 14, 1955.

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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

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) (1970).)

The claim is based upon an asserted one-half interest in community property consisting of unimproved land, household furniture, two boats and an automobile.

The claim was filed with an English copy of a Notarial document No. 62 of February 3, 1966 with an attachment in which claimant and his wife declared in Habana their ownership of certain real and personal property. Counsel referred to it as Exhibits A and A-1.


By Commission letters of March 15, 1968 and August 12, 1970 claimant was advised, through counsel, to submit the original Spanish documents from which exhibits A and A-1 were translated.

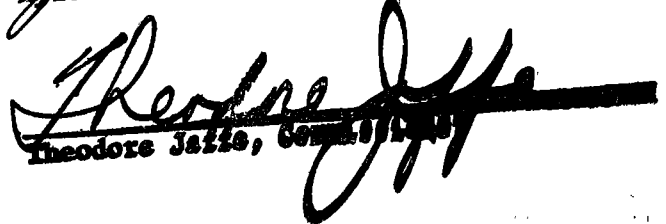
On November 6, 1970, counsel was invited to submit the suggested evidence within 30 days from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. The evidence has not been submitted to date.

The evidence of record has been considered. The Commission finds that it is of insufficient probative value to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. The burden of proof has not been met. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

MAR 29 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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 (1970).)