

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

IN THE MATTER OF THE CLAIM OF

FRANK J. CASTAGNET

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3134

Decision No. CU 4369

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 FRANK J. CASTAGNET, for \$14,979.00 based upon the asserted ownership and loss of an interest in land, and personal property. 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 contends he has lost an investment in two items of real property valued at \$2,170 and \$500; personal property valued at \$11,944; and a bank account of \$365.18.

Evidence of record establishes that claimant was the owner of parcel 4 of block 23, on Boulevard del Biltmore, Havana, Cuba.

The record also contains a copy of a letter from The Chase Manhattan Bank, Havana branch, which establishes that claimant had a balance of \$365.18 in his bank account.

Claimant has also furnished a list of the personal property which he contends was taken by the Government of Cuba when the house in which he was living was intervened in July 1959, during his absence.

On the basis of the entire record, the Commission finds that claimant was the owner of certain personal property which was taken by the Government of Cuba on July 15, 1959.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that claimant's lot on Boulevard del Biltmore, and his bank account were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

The Commission has examined the list of personalty furnished by claimant and in comparison with evidence available to the Commission of similar property, finds that \$11,944 was the fair and reasonable value thereof on July 15, 1959, and concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act on that date.

Based on the entire record the Commission finds that the land had a value of \$2,170, and that the bank account had a value of \$365.18, and concludes that claimant suffered a loss in the amount of \$2,535.18 within the meaning of Title V of the Act, as a result of the taking of these properties on December 6, 1961.

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.

Claimant has not established ownership and loss of the second item of real property claimed. Accordingly this part of his claim is denied.

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CERTIFICATION OF LOSS

The Commission certifies that FRANK J. CASTAGNET 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 Fourteen Thousand Four Hundred Seventy-nine Dollars and Eighteen Cents (\$14,479.18) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

7 JAN 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Nancy Freidberg

Nancy 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].)

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