

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

IN THE MATTER OF THE CLAIM OF

ALBERT ALBERTELLI
and
MABEL ALBERTELLI

Claim No. CU-3183

Decision No. CU-4892

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Leon A. Roth, Esq.

FINAL DECISION

The Commission issued its Proposed Decision in this case on May 27, 1970 certifying a loss to ALBERT ALBERTELLI for a one-half interest in the properties below, not including the interest of his spouse who was not shown to be a national of the United States:

Farm and improvements 1/4	\$ 4,125.00
Mine and equipment, including horses and gear	10,700.00
Household furnishings	1,375.00

Claimant has since submitted proof of the United States nationality of his spouse, since birth, who has petitioned to join in this claim, and who is hereby joined as a claimant. Additional evidence has been submitted and the Commission has held an oral hearing and issued a Final Decision in the Claim of Frank Sallano, Claim No. CU-2614, who owned a one-half interest in the farm.

On the basis of the record in this claim and in Claim No. CU-2614, the Commission now finds that claimants suffered the following losses in Cuba, on the dates indicated and in the amounts indicated:

	<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
ALBERT ALBERTELLI	Farm and improvements	June 17, 1959	\$25,000.00
	Mine and equipment, with horses and gear	November 17, 1959	10,700.00
	Household furnishings	December 6, 1961	5,500.00
			<u>\$41,200.00</u>

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
MABEL ALBERTELLI		
Farm and improvements	June 17, 1959	\$25,000.00
Mine and equipment, with horses and gear	November 17, 1959	10,700.00
Household furnishings	December 6, 1961	5,500.00
		<u>\$41,200.00</u>

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

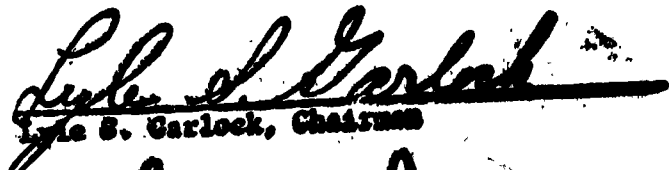
CERTIFICATIONS OF LOSS

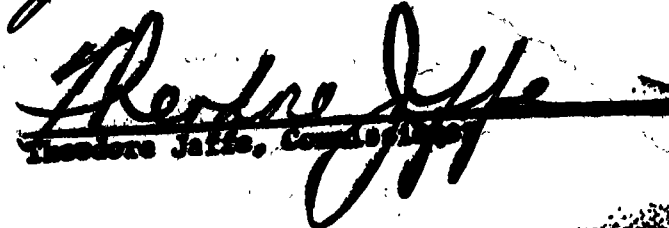
The Commission certifies that ALBERT ALBERTELLI suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-one Thousand Two Hundred Dollars (\$41,200.00) with interest thereon at 6% per annum from the aforesaid dates of loss to the date of settlement; and

The Commission certifies that MABEL ALBERTELLI 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 Forty-one Thousand Two Hundred Dollars (\$41,200.00) with interest thereon at 6% per annum from the aforesaid dates of loss to the date of settlement.

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

SEP 8 1971


Lyle S. Carlock, Chairman


Theodore Jaffe, Commissioner

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

IN THE MATTER OF THE CLAIM OF

ALBERT ALBERTELLI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3183

Decision No. CU 4892

Counsel for claimant:

Leon A. Roth, Esq.

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 ALBERT ALBERTELLI for \$89,740.00, based upon the asserted ownership and loss of real and personal property in Cuba. 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 describes his losses as follows:

One-half interest in a farm, with structures and livestock	\$50,000.00
One-half interest in a manganese mine	500.00
Mining equipment	24,440.00
Horses and riding equipment	1,800.00
20 pinball machines	2,000.00
House furnishings for four families	<u>11,000.00</u>
	\$89,740.00

Claimant has submitted in support of his claim a letter of June 21, 1967 from Harold Simpson, Mining Consultant, relating that from 1956 to 1959 he was engaged as a mining consultant in Cuba; that he examined a manganese claim in Oriente, Cuba, owned by ALBERT ALBERTELLI in one-half part, to evaluate tonnage and grade possibilities of the property, also examining the equipment which he estimated at \$20,000.00. His examination was made for a prospective buyer, which sale was not made because of the political situation in Cuba. Claimant has also submitted a detailed listing of the personal property claimed. In addition the Commission has received a report from abroad concerning the farm subject of this claim.

Farm

The evidence of record, including the report from abroad, establishes that claimant owned a one-half interest in a farm in South Marianao consisting of 11,686.15 square meters with certain improvements such as caretaker's house, stables, and the like.

The Cuban Agrarian Reform Law of May 17, 1959, published in the Cuban Official Gazette on June 3, 1959, established the National Agrarian Reform Institute and provided for the expropriation of rural properties and distribution among peasants and agricultural workers. The Fifth Transitory

Provision provided that until regulations for the Law were promulgated, it should be applied through resolutions of the National Agrarian Reform Institute. The regulations for carrying out the expropriation of such rural property were contained in Law 588, published in the Official Gazette on October 7, 1959.

The Commission finds that this farm was taken by the Government of Cuba on June 17, 1959, pursuant to the said Agrarian Reform Law. (See Claim of Estate of Grenville M. Dodge, Deceased, Claim No. CU-1290.)

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.

Claimant has failed to establish that the property had a value of \$100,000.00 as asserted. In a related claim (CU-2614), Frank Sallano informed the Commission that no income was being received from the farm. On the basis of evidence available to the Commission as to value of similar properties in Cuba, the Commission finds that the farm had a value of \$15,000.00 and that the improvements had a value of \$1,500.00 at the time of loss. Claimant's one-half interest therefore had a value of \$8,250.00.

Mine, Equipment and Related Personalty

On the basis of the record, the Commission finds that claimant owned a one-half interest in a manganese mine, and was the sole owner of equipment used in connection therewith, described as a drill, power plant, wheelbarrows, picks, shovels, dump cars, rails, hand tools, and a jeep. Further, the Commission finds that claimant was the owner of three horses and necessary riding equipment.

On October 27, 1959, the Cuban Government enacted Law No. 617, which authorized the Minister of Agriculture to order the commercial exploitation of mineral resources in Cuba. This law was published on November 17, 1959.

In the absence of evidence to the contrary, the Commission finds that claimant's interest in the manganese mine was taken on November 17, 1959. (See Claim of John El Koury, Claim No. CU-0384.) The Commission further finds that the mining equipment and the horses and riding gear were taken at the same time.

The Commission finds on the basis of the record, and considering evidence as to values of similar properties, that claimant's one-half interest in the mine had a value of \$500.00, the operating equipment had a value of \$20,000.00 and the three horses and gear had an aggregate value of \$900.00.

Pinball Machines

The Commission finds that claimant has not established his ownership and loss of the 20 pinball machines. Accordingly, this item of claim must be and is hereby denied.

Furniture and Furnishings

Claimant has asserted claim for \$11,000.00 for the loss of house furnishings for four families in a large estate, being two sons with wives and six grandchildren; a daughter with her husband and their two children; as well as claimant and his wife. He has described this property as the furnishings of bedrooms, living rooms, dining rooms, desks, cooking utensils, silverware, linens, lamps, tools, office machines, and the like.

The Commission is not convinced that all of the said personalty was the property of the claimant. However, the Commission finds that claimant did own a proportionate part of it.

On December 6, 1961, the Cuban Government published its Law 989 which effected confiscation of all assets, personal property and real estate, and other interests of persons who left the country.

In the absence of evidence to the contrary, the Commission finds that claimant's personal property, in the nature of household furnishings, was taken by the Government of Cuba on December 6, 1961, 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 Commission has considered the claimant's listing and evidence of the values of similar properties in Cuba, and finds that the value of claimant's personalty, at the time of loss, was \$2,750.00.

Under the Community Property Law of Cuba, claimant's spouse had a one-half interest in the items of claim. However, the record does not establish that she is a national of the United States. Inquiry on this point was directed to counsel, but no response was received. Accordingly, no certification is made for her interest in this matter.

Recapitulation

Claimant's losses within the scope of Title V of the Act may be summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Value of Claimant's Loss</u>
Farm and improvements	June 17, 1959	\$ 4,125.00
Mine and equipment, including horses and gear	November 17, 1959	10,700.00
Household furnishings	December 6, 1961	<u>1,375.00</u>
		\$16,200.00

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, from the aforesaid dates.

CERTIFICATION OF LOSS

The Commission certifies that ALBERT ALBERTELLI 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 Sixteen Thousand Two Hundred Dollars (\$16,200.00) with interest 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

MAY 27 1970



Luke 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).)