

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

IN THE MATTER OF THE CLAIM OF

GEORGE S. THOMAS  
and  
MARY P. THOMAS

Claim No. CU-3188

Decision No. CU-5204

Under the International Claims Settlement  
Act of 1949, as amended

Petition to reopen; Proposed Decision dated and entered August 6, 1970; Final Decision entered September 8, 1970.

AMENDED FINAL DECISION

Under date of September 8, 1970, the Commission entered its Final Decision denying this claim for lack of proof. Subsequently, claimants petitioned to reopen the claim, supported by documentary evidence.

Upon consideration of the new evidence in light of the entire record, the Commission amends the decision in this matter as follows:

The Commission now finds that claimants jointly owned a small department store at Sola, Camaguey Province, Cuba.

Law 989, published in the Cuban Official Gazette on December 6, 1961, by its terms effectively confiscated all properties of persons who left Cuba. The Commission finds that this law applied to claimants who had left Cuba on December 20, 1967. In the absence of evidence to the contrary, the Commission finds that claimants' department store was taken by the Government of Cuba on December 20, 1967 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Although the claim was timely filed and whereas it appears that the loss arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

Claimants assert that their department store had a value of \$26,000.00. On the basis of claimants' tax returns covering the department store for the period February 1, 1961 to December 31, 1961, which include a trial balance as of December 31, 1961, the Commission finds that claimants' valuation is fair and reasonable. Therefore, the Commission finds that claimants sustained a loss of \$26,000.00 on December 20, 1967.

The Commission finds that claimants jointly owned certain household possessions maintained at their residence in Cuba. The Commission further finds that said property was taken by the Government of Cuba on December 20, 1967.

The record contains a listing of these items of personal property as of January 10, 1966, aggregating \$5,124.70. Based on the evidence of record and in the absence of evidence to the contrary, the Commission finds that the values of these items of personal property should be reduced on account of depreciation. Accordingly, the Commission finds that the aggregate value of claimants' personal properties on the date of loss was \$3,416.47.

Claimants' losses on December 20, 1967 are summarized as follows:

<u>Item of Property</u>	<u>Amount</u>
Department store	\$26,000.00
Household possessions	<u>3,416.47</u>
Total	<u>\$29,416.47</u>

Therefore, GEORGE S. THOMAS and MARY P. THOMAS sustained losses in the amounts of \$14,708.24 and \$14,708.23, respectively.

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 this case it is so ordered.

Accordingly, the following Certifications of Loss will be entered, and in all other respects the Final Decision of September 8, 1970, as amended herein, is affirmed.

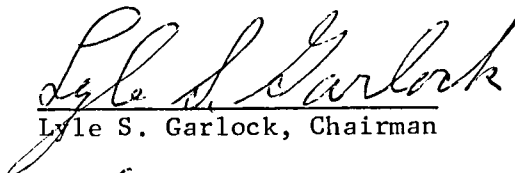
CERTIFICATIONS OF LOSS

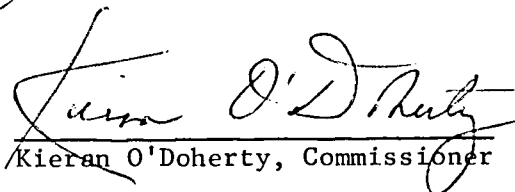
The Commission certifies that GEORGE S. THOMAS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fourteen Thousand Seven Hundred Eight Dollars and Twenty-Four Cents (\$14,708.24) with interest thereon at 6% per annum from December 20, 1967 to the date of settlement; and

The Commission certifies that MARY P. THOMAS 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 Seven Hundred Eight Dollars and Twenty-Three Cents (\$14,708.23) with interest thereon at 6% per annum from December 20, 1967 to the date of settlement.

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

**JUN 30 1972**

  
Lyle S. Garlock, Chairman

  
Kieran O'Doherty, 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.

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OF THE UNITED STATES  
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IN THE MATTER OF THE CLAIM OF

GEORGE S. THOMAS  
and  
MARY P. THOMAS

Claim No. CU-3188

Decision No. CU 5204

Under the International Claims Settlement  
Act of 1949, as amended

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 amount of \$61,571.00 was presented by GEORGE S. THOMAS and MARY P. THOMAS and is based upon the asserted loss of certain real and personal property in Cuba. Claimants have been nationals 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.

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) (Supp. 1967).)

Claimants assert that their claim is based on the loss of a wooden 8 room house on about 900 square meters located in Sola, Camaguey, a wooden 6 room house located in Piloto Beach, Camaguey, a department store located on Villalba Avenue, Sola, and savings and checking accounts with the National Cuban Bank in Sola and Camaguey.

By Commission letter of April 8, 1968, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act.

On May 24, 1968 claimant GEORGE S. THOMAS requested the assistance of the Commission in securing evidence to support this claim. On April 28, 1969 certain documentation which had been secured was sent to claimants for translations of pertinent portions.

On September 24, 1969 claimants were informed that if the suggested evidence was not received within 45 days, it might become necessary to determine the claim on the basis of the existing record. On May 15, 1970


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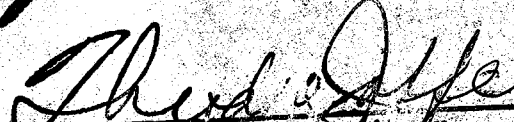
claimants were asked to advise the Commission within 10 days if they intended to pursue their claim and submit the suggested translations. No reply to these letters has been received.

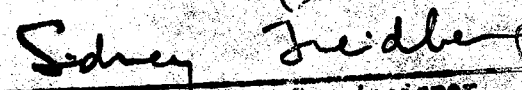
The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba from a United States national. Thus, the Commission is constrained 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

**AUG 6 1970**

  
Lyda S. Garlock, Chair

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)

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