

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

IN THE MATTER OF THE CLAIM OF

LUCIA W. MENDOZA

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -3219

Decision No. CU 3727

Counsel for claimant:

Manuel Zaiac, 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 LUCIA W. MENDOZA, for \$53,050.00 based upon the asserted ownership and loss of properties in Cuba. Claimant has been a national of the United States since 1958.

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 has described her claim as follows:

(1) 50% in personalty at 8 St. Alturas de Miramar, Marianao, Havana; and Land and Building	\$15,000.00
(2) 50% in furniture and clothing	2,500.00
(3) 50% in electrical appliances	1,000.00
(4) 50% in Peugeot automobile	800.00
(5) 50% in a law firm partnership	22,500.00
(6) Shares in Urbanizadora Central, S.A.	5,000.00
(7) Shares in Supermezcladora de Concreto, S.A.	2,500.00
(8) Shares in Plan de Viajes, S.A.	<u>3,750.00</u>
	\$53,050.00

In support of the claim there has been submitted photocopy of a paper reflecting that Internal Revenue Service allowed the above losses. The file also contains an affidavit from one Fernando G. Mendoza reflecting that the figures claimed for the entities represent the investment costs made by Nestor G. Mendoza.

The Commission finds that claimant owned the one-half asserted interests on the basis of the Cuban Community Property Law.

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 further finds, in the absence of evidence to the contrary, that the subject properties were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989, and that claimant thereby suffered a loss within the meaning of Title V of the Act.

On the basis of the record before the Commission, the Commission finds that the asserted values for items (1) through (5), totalling \$41,800.00, are fair and reasonable .

With respect to the shares of stock, it is observed that the values claimed represent the investment whereas Title V requires a finding of value as of the date of loss. Information on this point was suggested by Commission's letters of February 20, 1968, April 22, 1968 and June 12, 1968.

In the absence of specific evidence of value on the date of loss the Commission is constrained to hold that claimant has not established the extent of her loss with respect to items (6) through (8). Accordingly, this part of the claim is denied.

The Commission has decided that in certification 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, FCSC Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that LUCIA W. MENDOZA 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 Eight Hundred Dollars (\$41,800.00 ) 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

JUN 26 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

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).)