

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

IN THE MATTER OF THE CLAIM OF

JULIA AZORIN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3247

Decision No. CU -565

Counsel for claimant:

Robert S. Edwards, Esq.

Appeal from Proposed Decision entered November 1, 1967.  
No hearing requested.

Hearing on the record held on September 1, 1971.

FINAL DECISION

Under date of November 1, 1967, the Commission denied this claim for failure of proof. Claimant, a national of the United States since birth, has now submitted some evidence in support.

The claim is based upon an asserted 1/2 interest, pursuant to the Cuban community property law, in the following items of property:

1. Livestock	\$40,750.00, 1/3 :	\$ 13,583.00
2. Household furnishings		3,000.00
3. Automobile		3,000.00
4. Cash		1,000.00
5. Partnership Interest (1/3) in Hermanos Azorin		75,000.00
6. Road-grading Equipment \$213,000.00, 1/3 :		71,000.00
7. Securities:		
a. Union Alfarera Azorin de Camaguey, S.A.		200,000.00
b. Cia. de Inversiones y Arrendataria, S.A.		100,000.00
c. Proyectos y Construcciones Nacionales, S.A.		20,000.00
		<u>\$486,583.00</u>

Claimant's 1/2 interest: \$243,291.50

Based on all evidence now of record, including a copy of an Act of October 15, 1960, pursuant to a Resolution 395 of October 14, 1960, of the Minister of Public Works of Cuba, as well as an affidavit of one familiar

with certain of the properties, the Commission finds that claimant and her husband, a Cuban national, owned interests in property in Cuba, that these were taken by the Government of Cuba on October 14, 1960, and claimant thereby suffered a loss within the scope of Title V of the Act.

The properties found to have been so taken were livestock, household furnishings, an automobile, the properties of the partnership Hermanos Azorin (claimant's husband and his two brothers) which operated as Tejor La Conchita and manufactured brick products, certain construction equipment; Union Alfarera Azorin de Camaguey, S.A., which manufactured sewer pipe, and replacement parts for the aforesaid construction equipment.

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.

In arriving at the value of the properties the Commission has considered the entire record as well as evidence of value of similar properties in Cuba, and appraisals in connection with various construction equipment. Based on this record the Commission finds that the properties in which claimant had an interest had the following values:

Livestock	1/3 interest:	\$13,583.00
Household goods		3,000.00
Automobile		1,000.00
Properties of partnership Hermanos Azorin:		
Bank account	\$ 511.24	
6-3/4 cabs of land	<u>11,238.75</u>	
	\$11,749.99 1/3:	3,916.66
Construction equipment	\$79,130.00 1/3:	<u>26,376.66</u>
		\$47,876.32

Accordingly, the Commission finds that claimant suffered a loss of \$23,938.16 in connection with the taking of her interest in the above properties, by the Government of Cuba on October 14, 1960.

Although the Act of October 15, 1960 specifies that certain spare parts were the property of claimant's husband, they are not otherwise described and the Commission holds that their value has not been established. Similarly the record does not establish the value of Union Alfarera. Accordingly, claim on these items remains denied.

Moreover the record does not establish an item of cash apart from the partnership account, nor an interest in the Cia. de Inversiones y Arrendatoria, S.A., or Proyectos y Construcciones Nacionales, S.A. The Commission has noted the statement of Gabriel J. Cordovez referring to two other corporations of the brothers, a rental property company and a contracting company, as well as beach cottages owned by the brothers, but finds no substantiation or method of evaluation. Accordingly such items of claim remain denied.

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.

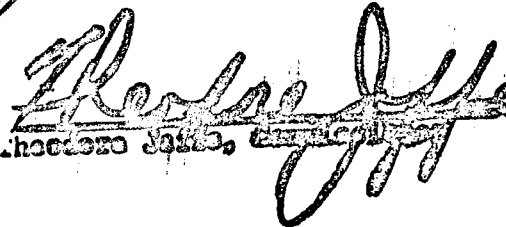
CERTIFICATION OF LOSS

The Commission certifies that JULIA AZORIN 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 Twenty-Three Thousand Nine Hundred Thirty-Eight Dollars and Sixteen Cents (\$23,938.16) with interest at 6% per annum from October 14, 1960, to the date of settlement.

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

SEP 1 1971

  
\_\_\_\_\_  
Paul S. Garlock, Chairman

  
\_\_\_\_\_  
Robert J. Hoff, Secretary

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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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 \$243,292.00, was presented by JULIA AZORIN and is based upon the asserted loss of an interest in personal property located in Cuba. Claimant stated that she has been a national of the United States since birth in Havana, Cuba.

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).)

Claimant contends that she and her husband owned personal property consisting of livestock, securities, business holdings and household furnishings having a value of \$486,584.00. Claimant further contends that under the Community Property laws of Cuba, she is entitled to a one-half of said property which was confiscated by the Cuban Government. Other than a copy of an Act of the Cuban Government referring to the taking of undescribed property of "Hermanos Azorin" and "La Conchita" no evidence in support of this claim has been submitted. By Commission letter of June 26, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence has been received to date. On July 21, 1967, counsel was invited to submit any evidence available to him within 45 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. No evidence has since been submitted.

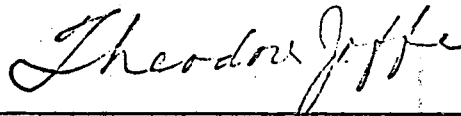
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby 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

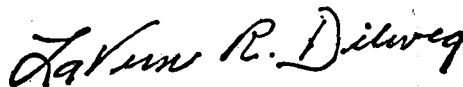
NOV 1 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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).)