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

IN THE MATTER OF THE CLAIM OF

MARY S. VEGA
and
BENIGNO D. VEGA

Under the International Claims Settlement Act of 1949, as amended

Claim No. CU-3328
Claim No. CU-3329
Decision No. CU- 5971

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by MARY S. VEGA and BENIGNO D. VEGA in the aggregate amount of $647,130.00 based upon the asserted ownership and loss of certain real and personal property and stock interests in a Cuban corporation. Claimant MARY S. VEGA has been a national of the United States since birth. Claimant, BENIGNO D. VEGA, husband of MARY S. VEGA, has been a national of the United States since his naturalization on January 15, 1965.

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.

Claimants describe their losses as follows:

(1) 1/2 interest in apartment house at 503 Avenida Central, Marianao	$ 40,880.00
(2) 1/4 interest in apartment house 10828 Santa Catalina St., Marianao	12,325.00
(3) 1/4 interest in apartment house 5139 San Juan St., Marianao	12,325.00
(4) Household furnishings at 503 Avenida Central, Marianao	6,000.00
(5) Endowment insurance policy	30,000.00
(6) 1/2 interest in leased sugar plantation enterprise	62,500.00
(7) 4,831 shares of Antillana de Acero, S.A.	483,100.00
Total	$647,130.00

The record contains reports from abroad and affidavits evidencing ownership interests in the real property and in the Cuban corporation subject of these claims, a copy of an insurance policy on claimant, BENIGNO D. VEGA'S life, and a list of the household furnishings and clothing.

On the basis of the evidence of record further discussed below, and pursuant to the community property laws of Cuba, the Commission finds that claimants each owned a 1/2 interest in certain real and personal property in Cuba.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the

claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

In view of the foregoing, and since the record reflects that the real and personal property subject of these claims was taken by the Government of Cuba prior to January 15, 1965 when claimant, BENIGNO D. VEGA, became a national of the United States, the Commission finds that the property interests subject of this claim which were owned by him, were not owned by a national of the United States on the dates of loss as required by Section 504(a) of the Act. Accordingly the Commission concludes that so much of these claims as is based on his ownership interests must be and hereby is denied. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966], and See Claim of Joseph Dallos Hollo, Claim No. CU-0101, 25 FCSC Semiann. Rep. 46 [July-Dec. 1966].)

Improved Realty

Based on reports from abroad, affidavits from individuals who have personal knowledge of the facts, and a copy of an affidavit of claimant, BENIGNO D. VEGA, filed by him on May 21, 1960 with the Ministry of Recuperation of Misapplication of Property of Cuba, the Commission finds that claimant, MARY S. VEGA, owned a 1/4 interest in the apartment house at Avenida Central and a 1/8 interest in the apartment houses at Santa Catalina St. and at San Juan Street.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that claimants' real property interests in Marianao were taken by the Government of Cuba pursuant to the provisions of the Urban Reform

Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission further finds that the household furnishings were taken on the same date.

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.

The apartment house at Avenida Central is described as a 2-story building constructed in 1952 of masonry with reinforced concrete roofing, monolithic terrazo floors, metal windows, cedar doors and first-class bathrooms. The ground floor has 3 garages, 2 shop rooms, a porch, servants' quarters and bathroom. On both sides of the garages are 2 independent houses consisting of about 20 rooms each and usual facilities. The 2 floors are described as measuring a total of about 935 square meters and the building, located on a plot of 1,440 square meters was constructed in 1952. Claimants state that the value of the land and building, taking into account depreciation was $81,760.00.

The apartment houses at Santa Catalina Street and at San Juan Street are described as 4-story buildings of masonry and monolithic concrete roofs comprising 8 apartments each and consisting of about 4 or 5 rooms each. Claimants state that the apartment houses were purchased in 1958 and that the value of the land and buildings, taking depreciation into account was $49,300.00 each.

Based upon all the evidence of record including evidence available to the Commission of similar properties in Marianao, the Commission finds that the asserted values are fair and reasonable and concludes that on October 14, 1960, the date of loss, the value of the apartment house at Avenida Central was $81,760.00 and that the value of the other 2 apartment houses was $49,300.00 each.

In view of the above, the Commission concludes that claimant, MARY S. VEGA, suffered a loss in the amount of $20,440.00 for the loss of her 1/4 interest in the apartment building at Avenida Central, and in the total amount of $12,325.00 for the loss of her 1/8 interests in the other 2 apartment buildings; or a loss in the aggregate amount of $32,765.00 within the meaning of Title V of the Act.

Household Furnishings

Claimants have submitted a list of their household furnishings and clothing which includes the dates of acquisition, the purchase price in some instances and estimated value on date of loss. The Commission finds that $6,000, the original asserted depreciated value of this personalty is fair and reasonable.

Accordingly the Commission concludes that claimant, MARY S. VEGA suffered a loss in the amount of $3,000.00 for the loss of her 1/2 interest in the household furnishings on October 14, 1960.

Sugar Plantation

Based on the evidence of record including 2 affidavits from individuals who have known claimant, BENIGNO D. VEGA, for many years, one of whom was President of the National Executive Committee of the Association of Sugar Cane Plantation Owners of Cuba, the Commission finds that claimant, BENIGNO D. VEGA, had a 50% leasehold interest in a sugar cane plantation known as "Colonia Manolita" including 990 acres of sugar cane, 198 acres of cattle pastureland and certain buildings, livestock, machinery and equipment located in Bauta, Havana.

On December 6, 1961, the Cuban Government published its Law 989 which confiscated all assets, personal property and real estate, rights, shares, stock, bonds and securities of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that this plantation 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.].)

The President of the National Executive Committee of the Association of Sugar Cane Plantation Owners of Cuba, who is now resident in the United States, states in his affidavit that based on his personal experience he estimates the average cost of sugar cane plantation was $100.00 per acre; that the value of the machinery and equipment on "Colonia Manolita" was $16,100.00; and that the total value of the plantation, not including the value of the land, was $125,000.00.

The record also contains a certified estimated balance sheet as of December 31, 1960 prepared by an accountant which lists the value of the plantation including an irrigation system, transportation equipment, agricultural implements, buildings, windmill, deepwells, cattle and livestock as $180,000.00.

Based on the evidence of record the Commission finds that the aggregate value of the plantation exclusive of the value of the land but including the machinery and equipment was $125,000.00 on the date of loss, and concludes that claimant, MARY S. VEGA, suffered a loss for her 1/4 interest therein in the amount of $31,250.00.

Antillana de Acero, S.A.
(Antillian Steel Corporation)

The record contains affidavits of the former Secretary of the Antillian Steel Corporation, of a general partner and vice president of an investment banking firm, of a general manager of the Republic Steel Corporation, and of claimant, BENIGNO D. VEGA, filed by him on May 21, 1960 with the Cuban Ministry referred to above. Based on the evidence of record the Commission finds that claimant, MARY S. VEGA, owned a 1/2 interest in 4,831 shares of stock in this corporation.

In our decision entitled the Claim of Independence Foundation (Claim No. CU-2152, which we incorporate herein by reference), we held that the properties owned by the Company were intervened by the Government of Cuba on March 25, 1960, and that this type of claim is allowable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of $100.00.

On the basis of evidence in the record in the instant case, the Commission finds that claimant, MARY S. VEGA, has been the owner of a 1/2 interest in 4,831 shares of stock in Cia. Antillana de Acero, S.A. since prior to March 25, 1960, and that she suffered a loss in the amount of $241,550.00 within the meaning of Title V of the Act.

Insurance Policy

Claimants have submitted a copy of an insurance policy of Compania Cubana de Fianzas, Havana, taken out on claimant, BENIGNO D. VEGA'S life, on June 13, 1960 and a copy of a certificate from Phoenix Assurance Company Limited of London, England which guaranteed fulfillment of the liabilities of Compania Cubana de Fianzas under this policy.

The policy provided for an annual premium of $3,189.50 binding the company to pay claimant, BENIGNO D. VEGA $30,000.00 if he were still alive on June 13, 1970 or to his beneficiaries if he died before said date. By an attached document the company acknowledges receipt of $24,794.52 from claimant on June 13, 1960.

Claimants assert a loss of $30,000.00 based on this policy. The record, however, contains no evidence that MARY S. VEGA had any interest in this policy or that the proceeds of the insurance policy were taken from her by the Government of Cuba, or from BENIGNO D. VEGA, after he acquired nationality of the United States. This portion of the claim is therefore denied.

Recapitulation

Claimant, MARY S. VEGA'S losses are summarized as follows

Item	Date of Loss	Amount
3 Apartment houses	October 14, 1960	$ 32,765.00
Household furnishings	October 14, 1960	3,000.00
Sugar Plantation	December 6, 1961	31,250.00
Antillian Stock	March 25, 1960	241,550.00
	Total	$308,565.00

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 as follows:

FROM	ON
March 25, 1960	$241,550.00
October 14, 1960	35,765.00
December 6, 1961	31,250.00
	$308,565.00

CERTIFICATION OF LOSS

The Commission certifies that MARY S. VEGA 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 Three Hundred Eight Thousand Five Hundred Sixty-Five Dollars, ($308,565.00) 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

NOV 23 1970

Lyle S. Garlock, Chairman

Theodore Jaffe, 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 or 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].)