

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

IN THE MATTER OF THE CLAIM OF

MARY A. WINGARD CASTRO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3345

Decision No. CU 4732

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 \$560,861.00, was presented by MARY A. WINGARD CASTRO based upon the asserted loss of certain 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.

The record establishes and the Commission finds that claimant's late husband, Porfirio Castro, a national of the United States from his naturalization on May 1, 1936 until his death on April 21, 1962, owned certain real and personal property in Cuba, discussed in detail below. Upon his testate death, claimant inherited all of his property interests.

On December 6, 1961, the Cuban Government published Law 989, which effected confiscation of all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to claimant's late husband, and that his interests in property situated in Cuba were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989, except as noted hereafter. The Commission further finds that as a result of said action claimant's late husband sustained a loss of property within the meaning of Title V of the Act, to which claimant succeeded. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]; and Claim of Floyd W. Auld, Claim No. CU-0020, id. at 55.)

Claimant has asserted the following losses:

Bank deposits	\$330,861.00
Business known as Porfirio's Workshop	150,000.00
Real property in Guanabacoa	70,000.00
Three automobiles and household furniture	<u>10,000.00</u>
Total	<u>\$560,861.00</u>

Bank Accounts

Based upon reports from abroad, the Commission finds that the late Mr. Porfirio Castro owned two bank accounts maintained at the Bank of

Nova Scotia, Havana Branch, having an aggregate value of \$330,861.00, the Cuban peso being on a par with the United States dollar. It is therefore concluded that the value of those bank accounts on January 10, 1962, the date of loss, was \$330,861.00.

Porfirio's Workshop

The Commission finds on the basis of the evidence of record that claimant's late husband owned a business known as Porfirio's Workshop, which was engaged in producing certain steel products. The record establishes that said business was taken by the Government of Cuba by Resolution No. 38 on October 29, 1961.

The evidence includes a notice in the Cuban Official Gazette that this workshop had been sold by the authorities for \$87,303.61. Claimant asserted that the value of the business was \$150,000.00. On several occasions the Commission suggested that claimant submit evidence to support her valuation. However, claimant failed to submit any evidence concerning the value of the business. On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that the value of the workshop on October 29, 1961, the date of loss, was \$87,303.61.

Real Property

The record establishes and the Commission finds that claimant's late husband owned certain land in Guanabacoa, Cuba, having an area of 15,688.18 square meters, which he had acquired in 1956 for \$30,000.00. Claimant states that her late husband had improved the property by the addition of topsoil, and that the property had been appraised at \$70,000.00. Although suggestions were made that supporting evidence be submitted to corroborate claimant's assertions no such evidence has been filed.

On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that the land had a value of \$30,000.00 on January 10, 1962, the date of loss.

Personal Property

Claimant has asserted the loss of three automobiles and household furniture in the amount of \$10,000.00. Other than her own general statements, claimant has submitted no evidence whatsoever in support of this portion of her claim although it was suggested to claimant on several occasions that supporting evidence was lacking.

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).)

The Commission finds that the evidence is insufficient to warrant favorable action with respect to the portion of the claim based upon the said personal property in the asserted amount of \$10,000.00. Accordingly, this portion of the claim is denied.

Recapitulation

Claimant's losses within the meaning of Title V of the Act are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Bank Accounts	January 10, 1962	\$330,861.00
Porfirio's Workshop	October 29, 1961	87,303.61
Real Property	January 10, 1962	<u>30,000.00</u>
	Total	<u>\$448,164.61</u>

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 as follows:


<u>FROM</u>	<u>ON</u>
October 29, 1961	\$ 87,303.61
January 10, 1962	<u>360,861.00</u>
Total	<u>\$448,164.61</u>

CERTIFICATION OF LOSS

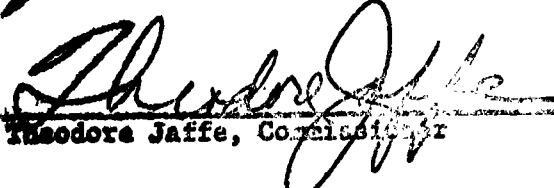
The Commission certifies that MARY A. WINGARD CASTRO succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Forty-eight Thousand One Hundred Sixty-four Dollars and Sixty-one Cents (\$448,164.61) with interest thereon at 6% per annum from October 29, 1961 on \$87,303.61, and from January 10, 1962 on \$360,861.00, to the date of settlement.

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

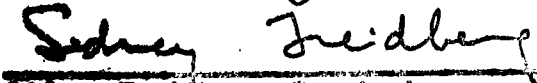
15 APR 1970



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).)