

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

IN THE MATTER OF THE CLAIM OF

JAMES O. McCOWN
CAROLYN L. McCOWN

Claim No. CU-3760

Decision No. CU 4283

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 \$1,750.00, was presented by JAMES O. McCOWN and CAROLYN L. McCOWN, and is based upon the asserted loss of five (5) acres of land located on the Isle of Pines, 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.

The Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967 (FCSC Reg., 45 C.F.R. Sec. 531.5(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg. Sec. 531.1(g))

No claim was filed with this Commission by or on behalf of claimants within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning this asserted loss.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.) This is such a claim.

The evidence of record consists of reports from abroad and the affidavit of Edwin R. Greenfield. Based on the entire record, the Commission finds that claimants JAMES O. McCOWN and CAROLYN L. McCOWN were the joint owners of five acres of land described as East Half of the one-fourth Part Northeast Corner of Lot 10, Section 2 of Reparto Hacienda Santa Fe, Isle of Pines, Cuba.

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, stock, bonds, and securities of persons who had left the country. The record reflects that claimants

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resided in the United States at that time. The Commission finds, in the absence of evidence to the contrary, that the subject improved real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record, including information available to the Commission, the Commission finds that \$1,750.00 is a reasonable value for this property at the time of loss, and concludes that each claimant suffered a loss, within the meaning of Title V of the Act, in the amount of \$875.00.

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.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that JAMES O. McGOWN 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 Eight Hundred Seventy-Five Dollars (\$875.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that CAROLYN L. McGOWN 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

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amount of Eight Hundred Seventy-Five Dollars (\$875.00) with interest thereon 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

DEC 10 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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].)

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