

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

**IN THE MATTER OF THE CLAIM OF**

RUTH WUNDERLICH LANDES and  
THE FIDELITY BANK,  
EXECUTORS OF THE ESTATE OF  
ALBERT WUNDERLICH, DECEASED

Claim No. CU -3793

Decision No. CU - 5866

**Under the International Claims Settlement  
Act of 1949, as amended**

Counsel for claimant:

Henry M. Irwin, 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 RUTH WUNDERLICH LANDES and THE FIDELITY BANK, EXECUTORS OF THE ESTATE OF ALBERT WUNDERLICH, DECEASED for \$1,500.00 based upon the asserted ownership and loss of certain unimproved land in Pinar del Rio, Cuba. The decedent died testate in 1943. The beneficiaries of his estate were United States nationals at the requisite times.

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. See 531.1(d) (1969)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall 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 the 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.

This claim is based on the loss of 2-1/2 lots in Pinar del Rio, Cuba, comprising 100 acres and valued at \$1,500.00.

Based upon the entire record, including a report from abroad the Commission finds that decedent owned the unimproved realty subject of this claim.

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

The Commission finds, in the absence of evidence to the contrary, that the subject real property 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. 1966].)

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 record includes, in support of the claimed values the aforementioned report from abroad which disclose that decedent acquired the lots subject of this claim located in Las Ovas, Pinar del Rio on May 28, 1909 for a total of \$1,250.00. The record also includes a copy of a letter from an attorney-at-law dated October 8, 1956 addressed to a trust officer of The Fidelity Bank in which the attorney states that he visited Las Ovas where he was told that the entire tract of land was not "good land" and that according to people familiar with the zone the value per acre of the tract where the lots were located was between \$10.00 and \$15.00. The record establishes that total acreage is 100 acres.

On the basis of the evidence of record and evidence available to the Commission regarding the value of similar properties in Pinar del Rio, the Commission finds that on December 6, 1961, the date of loss, the parcels of land subject of this claim had a total value of \$1,500.00, and concludes that claimants succeeded to and suffered a loss in that amount within the meaning of Title V of the Act.

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 settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant claim it is so ordered.

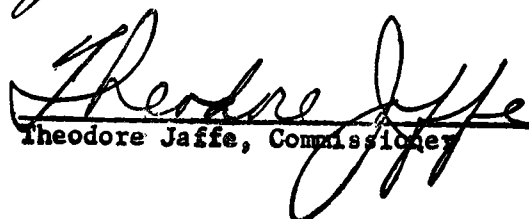
CERTIFICATION OF LOSS

The Commission certifies that RUTH WUNDERLICH LANDES and THE FIDELITY BANK, EXECUTORS OF THE ESTATE OF ALBERT WUNDERLICH, DECEASED 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 One Thousand Five Hundred Dollars (\$1,500.00) 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

SEP 30 1970

  
Lyle S. Gariock, Chairman

  
Theodore Jaffe, 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).)