

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

IN THE MATTER OF THE CLAIM OF

LILLIAN S. TREVEJO

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3834

Decision No. CU 5991

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was opened by the Commission on behalf of LILLIAN S. TREVEJO while outside the United States. Thereafter she adopted this action and presented claim in the amended amount of \$128,029.05 based upon the asserted ownership and loss of certain improved realty 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.

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.

Section 505(a) of the Act provides:

A claim under Section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant describes her losses as follows:

1. House in Vedado, Havana	\$ 50,000.00	
2. Three bank accounts	25,212.55	
3. Household furnishings and appliances	2,266.50	
4. 100 shares of Cuban Telephone Company (Cutelco)	10,000.00	
5. 19 bonds of Cuban Electric Company	8,350.00	
6. 100 shares of preferred stock of Cutelco	10,000.00	
7. Interests inherited from father:		
Three houses	\$15,000.00	
100 shares of Cuban Electric Company	2,000.00	
Debentures of Cuban Electric Company	5,000.00	
2 bonds from Cuban corporation	<u>200.00</u>	<u>22,200.00</u>
		\$128,029.05

The record contains copies of pages from passbooks, a list of the personal property subject of this claim, claimant's affidavit prepared in Cuba on November 10, 1965 with regard to her ownership interests in the real and

personal properties subject of this claim, copies of the securities subject of this claim, and invoices regarding a number of the household furnishings and appliances addressed to claimant's father and one addressed to claimant.

On the basis of the evidence of record, further discussed below, the Commission finds that claimant owned various interests in certain real and personal property in Cuba.

#### Interests Inherited From Father

The record establishes that claimant's father, a Cuban national, died intestate on June 9, 1963 survived by claimant and her mother, also a Cuban national.

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 of claimant's father were taken by the Government of Cuba prior to June 9, 1963 when claimant's father died, the Commission finds that the property interests subject of this claim which had been 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 this claim as is based on the interests inherited from him must be and hereby is denied. (See Claim of Sigridur Einarisdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966]; and Claim of Joseph Dallos Hollo, Claim No. CU-0101, 25 FCSC Semiann. Rep. 46 [July-Dec. 1966].)

House in Vedado

Based on the evidence of record the Commission finds that claimant owned a two-story house at 854 19th Street, Vedado.

Claimant asserts that her properties were taken by the Government of Cuba in 1960 pursuant to the Urban Reform Law. She states that with regard to her house at 19th Street in Vedado she continued to receive rents, although reduced by about one-half, until January or February, 1966 when the Cuban Government learned that she was planning to leave Cuba. Thereafter, she says, the Cuban Government stopped paying her any rent. It appears that she arrived in the United States on April 10, 1968.

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 claimant's real property in Vedado was 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 February 1, 1966, the date on which the Government of Cuba stopped paying her rent for this property. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

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.

Claimant estimates the value of this property as \$50,000.00. The house is described in claimant's affidavit of November 10, 1965 as a two-story

house of brick walls, cement roof and tile floors, measuring 25 meters frontage and about 23 meters in depth. The value she cited for the property in her affidavit is \$35,000.00. In this regard she states that this figure was taken from the deed and that in accordance with the custom in Cuba the purchase price was understated. Based upon the entire record, the Commission finds that this property had a value of \$40,000.00 on February 1, 1966, the date of loss.

#### Bank Accounts

Claimant asserts that she had three bank accounts in the National Bank of Cuba, Vedado, with balances in October, 1965 of 19,359.28 pesos, 5,231.16 pesos and 622.11 pesos.

In support of this portion of her claim, claimant has submitted her aforementioned affidavit of November 10, 1965 which supports the balances asserted and copies of the pages from the passbooks which reflect that these bank accounts had the following balances: 19,483.83 pesos as of November 6, 1965; 5,231.16 pesos as of October 13, 1965; and 622.11 pesos as of October 8, 1965, respectively.

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.

Based on all the evidence of record including the foregoing, the Commission finds, in the absence of evidence to the contrary, that claimant owned three bank accounts having balances of 19,483.83 pesos, 5,231.16 pesos and 622.11 pesos totalling 25,337.10 pesos (which were on a par with United States dollars) and were taken by the Government of Cuba on November 7, 1965. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

#### Household Furnishings

Claimant asserts the loss of household furnishings and appliances in the total amount of \$2,266.50. In support of this portion of her claim she has submitted invoices covering most of the items on the list of personalty she

furnished. All but one of the invoices are made out to claimant's father and bear dates from 1954 to July, 1959. It therefore appears that these items, including two TV sets, refrigerator and certain household furnishings were inherited by claimant from her father in 1963 and as stated above, so much of her interest in this personal property as was inherited from a Cuban national must be and hereby is denied.

Based on the evidence of record the Commission finds that some items of the household furnishings had not been inherited and were the personal property of claimant. The Commission further finds that the fair and reasonable value of these items was \$350.00 and that they were taken by the Government of Cuba on January 10, 1967 pursuant to Law 989 (see Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]), even though claimant remained in possession for a time thereafter.

#### Cutelco

A portion of this claim is based on the loss of 100 shares each of common and preferred stock of Cutelco.

The Commission has held that a claim based upon stock of the Cuban Telephone Company is within the purview of Title V of the Act because, although the Cuban Telephone Company was a national of the United States at all pertinent times, it is now defunct. (See Claim of International Telephone and Telegraph Corporation, Claim No. CU-2615.) In that claim, the Commission found that the assets of the Cuban Telephone Company had been taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable 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 Cutelco common stock as \$184.0057 and of Cutelco preferred stock as \$104.50.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the ITT decision; that she has been the owner of 100 shares each of common and preferred stock in Cutelco since prior to August 6, 1960, and that she suffered a loss, as of August 6, 1960 in the total amount of \$28,850.57 within the meaning of Title V of the Act.

Cuban Electric Company

With regard to the portion of this claim based on the loss of 19 bonds of the Cuban Electric Company, the record shows that Cuban Electric Company qualified as a United States national (Claim No. CU-2578). Pursuant to Section 505(a) of the Act, a debt due from Cuban Electric Company cannot be considered unless it was a charge on nationalized property. Claimant has neither asserted nor submitted evidence to establish that the indebtedness of Cuban Electric Company was a charge upon property which was nationalized or otherwise taken by the Government of Cuba. Accordingly, the Commission has no authority to consider this item of claim and it is therefore denied. (See Claim of Anaconda American Brass Co., Claim No. CU-0112, 1967 FCSC Ann. Rep. 60.)

Summary

Claimant's losses are therefore summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
House in Vedado	February 1, 1966	\$40,000.00
Bank accounts	November 7, 1965	25,337.10
Household furnishings	January 10, 1967	350.00
Cutelco	August 6, 1960	<u>28,850.57</u>
	Total	\$94,537.67

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:


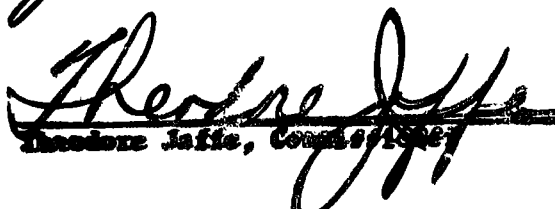
<u>FROM</u>	<u>ON</u>
August 6, 1960	\$28,850.57
November 7, 1965	25,337.10
February 1, 1966	40,000.00
January 10, 1967	<u>350.00</u>
	\$94,537.67

CERTIFICATION OF LOSS

The Commission certifies that LILLIAN S. TREVEJO 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 Ninety-four Thousand Five Hundred Thirty-seven Dollars and Sixty-seven Cents (\$94,537.67) 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

DEC 16 1970

  
Lyle S. Garlock, Chairman  
  
Theodore Jaffe, Counsel

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).)