

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

IN THE MATTER OF THE CLAIM OF

MARY LOU SMITH,
CLARENCE T. PROCTOR,
KATHLEEN R. PROCTOR

Claim No. CU-3865

Decision No. CU -6842

Under the International Claims Settlement
Act of 1949, as amended

Petition to reopen; Order of Dismissal dated and entered August 14, 1968.

FINAL DECISION

This claim was opened by the Commission on behalf of MARY LOU SMITH because she was outside the United States and was unable to return to this country. The claim was dismissed because the original claimant failed to assert a claim within a reasonable period of time after March 6, 1968, when she returned to the United States.

Subsequently, evidence was submitted concerning the original claimant's losses and the related losses of her parents, including proof that the original claimant, MARY LOU SMITH, and her father CLARENCE T. PROCTOR, have been United States nationals at all pertinent times.

Upon consideration of the new evidence, the Order of Dismissal of August 14, 1968 is set aside, CLARENCE T. PROCTOR is added as party claimant, and this decision is entered.

The Commission now finds that pursuant to the community property laws of Cuba (see Claim of Robert L. Cheaney, et ux., Claim No. CU-0915) MARY LOU SMITH and her husband on the one hand, and CLARENCE T. PROCTOR and his wife on the other, owned equal interests in certain properties in Cuba, discussed below. Since the record contains no evidence to establish that the respective spouses of the claimants have been United States nationals at all pertinent times, their interests cannot be considered in this proceeding. The claim asserted by KATHLEEN R. PROCTOR is therefore denied.

The Commission finds that MARY LOU SMITH owned a 1/2 interest in certain furniture and household belongings maintained in her parents' home in Guantanamo, Oriente, Cuba.

Law 989, published in the Cuban Official Gazette on December 6, 1961 by its terms effectively confiscated properties in Cuba of persons who left that country. The Commission finds that this law applied to MARY LOU SMITH who had left Cuba on March 6, 1968. In the absence of evidence to the contrary, the Commission finds that claimant's interest in the said personal properties was taken by the Government of Cuba on March 6, 1968 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Although this claim was timely filed and whereas it appears that the loss of the personal properties arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

On the basis of the entire record, including a description of the items of personal property, the Commission finds that the aggregate depreciated value thereof on March 6, 1968 was \$764.00. Therefore, this claimant's 1/2 interest therein had a value of \$382.00.

The Commission finds that CLARENCE T. PROCTOR owned a 1/2 interest in the house and lot at Guantanamo, Oriente Province, Cuba, which was occupied by his daughter. The Commission further finds that the house and lot were taken by the Government of Cuba on March 6, 1968 pursuant to Law 989.

Based upon the evidence of record, the Commission finds that this claimant's valuation of the improved real property is fair and reasonable. The Commission therefore finds that the house and lot had a value of \$3,500.00 on March 6, 1968, and that CLARENCE T. PROCTOR's 1/2 interest had a value of \$1,750.00.

The Commission also finds that CLARENCE T. PROCTOR owned a 1/2 interest in certain furniture and household belongings maintained in his house in Guantanamo, Cuba. The Commission further finds that said personal property was taken by the Government of Cuba on March 6, 1968 pursuant to Law 989.

On the basis of the entire record, including a description of the items of personal property, the Commission finds that said personal property had a depreciated value of \$1,054.00 on March 6, 1968. Therefore, this claimant's 1/2 interest therein had a value of \$527.00.

Additionally CLARENCE T. PROCTOR had invested \$90.00 in a plot of land in Guantanamo, which was taken on January 7, 1967, and the Commission finds that he suffered a loss of \$45.00 on that date.

The Commission finds that CLARENCE T. PROCTOR owned a 1/2 interest in certain bank deposits maintained at the Banco Alfa de Ahorro y Capitalizacion, S.A., in Cuba and that said deposits were taken by the Government of Cuba pursuant to Law 989 and on January 7, 1967, when claimant left Cuba. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].) On the basis of copies of a letter of March 21, 1961 and a statement of February 23, 1962 from the said bank, and claimants averments, the Commission finds that the bank deposits had a value of \$3,000 on January 7, 1967. Therefore, this claimant's 1/2 interest therein had a value of \$1,500.

Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
	<u>Mary Lou Smith</u>	
Personal property	March 6, 1968	<u>\$ 382.00</u>
	<u>Clarence T. Proctor</u>	
Improved real property	March 6, 1968	\$1,750.00
Personal property	March 6, 1968	527.00
Bank Deposits	January 7, 1967	1,500.00
Investment in land	January 7, 1967	<u>45.00</u>
	Total	<u>\$3,822.00</u>

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>
<u>Mary Lou Smith</u>	
March 6, 1968	<u>\$ 382.00</u>
<u>Clarence T. Proctor</u>	
January 7, 1967	\$1,545.00
March 6, 1968	<u>2,277.00</u>
Total	<u><u>\$3,822.00</u></u>

Accordingly, the following Certifications of Loss will be entered:

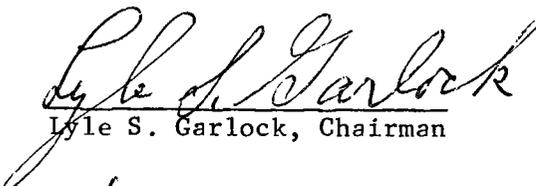
CERTIFICATIONS OF LOSS

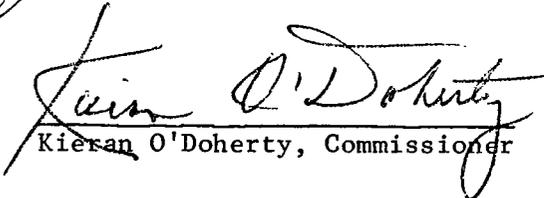
The Commission certifies that MARY LOU SMITH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Hundred Eighty-Two Dollars (\$382.00) with interest thereon at 6% per annum from March 6, 1968 to the date of settlement; and

The Commission certifies that CLARENCE T. PROCTOR 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 Thousand Eight Hundred Twenty-Two Dollars (\$3,822.00) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, 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.