

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

IN THE MATTER OF THE CLAIM OF

DALIA S. ACOSTA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3893

Decision No. CU -6832

Petition to Reopen; Order of Dismissal dated and entered July 23, 1969.

FINAL DECISION

This claim, for an unstated amount, 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 DALIA S. ACOSTA while she was in Cuba. Since DALIA S. ACOSTA did not prosecute this claim an Order of Dismissal was entered July 23, 1969. On February 2, 1970 claimant submitted pertinent evidence, thus petitioning to reopen the matter. Claimant has been a national of the United States since her birth on October 31, 1911.

The petition and evidence having been considered, the Order of Dismissal is set aside and this decision will be entered.

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 owned wholly or partially, directly or indirectly at the time by nationals of

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.

Although the claim itself was timely filed, it appears that claimant's loss arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has also 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.)

The evidence of record consists of reports from abroad, receipts and photographs of the real property.

Claimant was married at the time she acquired interests in the asserted real and personal property. The Commission has been advised that claimant's husband is not a national of the United States and accordingly, any interest he had in the properties is not certifiable.

Based on the entire record the Commission finds that claimant was the owner of a one-half interest in improved real property and certain personal property, hereinafter more fully described, at Kessel 333, Reparto Apolo, Havana, Cuba and that this property was taken by the Government of Cuba on April 9, 1969 pursuant to Law 989 of December 6, 1961 which provided for the confiscation of properties of those who left Cuba.

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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The improved real property consisted of a lot measuring 300 square meters improved with a one-story house of concrete blocks, with porch and six rooms. It was purchased in 1956 and, at the time of loss, the mortgage was paid off. Based on its description and information available to the Commission as to the value of similar property in Havana, the Commission finds that at the time of loss it had a value of \$15,000.00. The Commission concludes that claimant suffered a loss in the amount of \$7,500.00 for her one-half interest in said property.

A part of the claim is based on the loss of certain personal property in the asserted value of \$22,686.50. However, the lists submitted by claimant reflect an amount of \$16,661.50.

Claimant has not indicated when and where or in what manner these properties were acquired. She has not stated whether the asserted value reflects the cost price or replacement value. In the absence of evidence to the contrary the Commission has adopted herein a six years' depreciation on all personalty. The Commission has determined that apart from antiques not subject to depreciation, furniture and appliances must be depreciated at a rate of 5 per cent per annum; and furnishings including drapes, lamps, clothing, must be depreciated at 10 per cent per year. Accordingly, the Commission

finds that claimant's one-half interest in the furniture and furnishings had a value of \$3,820.18. Claimant has asserted a value of \$1,500.00 for a 1951 Chevrolet, 4-door sedan. The Commission finds however that after some 18 years the residual value of this car was \$75.00. Claimant's loss for the jewelry and a one-half interest in other non-depreciable items was \$1,726.00. In summary, claimant sustained a loss in the amount of \$5,583.68 for her personal property.

The Commission concludes that, under Title V of the Act, claimant sustained a total loss in the amount of \$13,083.68 including real and personal property.

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-0466), and in the instant case it is so ordered.

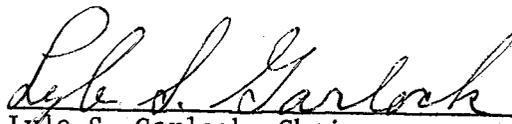
Accordingly, the following Certification of Loss will be entered.

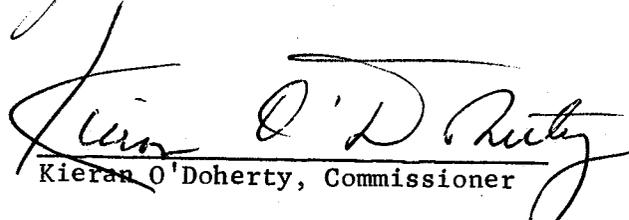
CERTIFICATION OF LOSS

The Commission certifies that DALIA S. ACOSTA 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 Thirteen Thousand Eighty-Three Dollars and Sixty-Eight Cents (\$13,083.68) with interest thereon at 6% per annum from April 9, 1969 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.