

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

IN THE MATTER OF THE CLAIM OF

CELESTE P. MONAHAN, Guardian
of the Person and Property of
JULIAN ADOLFO PARRENO, Incompetent;
CELESTE P. MONAHAN, Individually;
and
JULIET PARRENO STECKI

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

Claim No. CU-4386

Claim No. **CU** - 4387

Claim No. CU-8398

Decision No. **CU-6172**

Counsel for claimants:

Joseph C. Valantiejus, Esq.

PROPOSED DECISION

Claim Nos. CU-4386 and CU-4387 against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were opened by the Commission on behalf of JULIAN ADOLFO PARRENO and Celeste Parreno while they were in Cuba. On March 19, 1969 both aforementioned parties adopted these actions and filed their own claim which was assigned No. CU-8398. The claims, in the amount of \$96,601.83, are based upon the loss of improved real property, personal property consisting of household furniture, fixtures and personal effects, bank accounts and rental income. JULIAN ADOLFO PARRENO and Celeste Parreno were nationals of the United States since their respective naturalizations on June 17, 1942 and January 17, 1950.

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.

Celeste Parreno died intestate in Florida on December 4, 1969 survived by her husband, JULIAN ADOLFO PARRENO, and her two daughters, CELESTE P. MONAHAN and JULIET PARRENO STECKI. On April 24, 1970 CELESTE P. MONAHAN was granted Letters of Guardianship of the Person and Property of her father, JULIAN ADOLFO PARRENO. Accordingly, CELESTE P. MONAHAN, Guardian of the Person and Property of JULIAN ADOLFO PARRENO, Incompetent; CELESTE P. MONAHAN, Individually, and JULIET PARRENO STECKI, have been substituted as party claimants herein.

The evidence of record includes a report from abroad and correspondence. Based on the entire record the Commission finds that pursuant to the Community Property Law of Cuba the aforementioned JULIAN ADOLFO PARRENO and Celeste Parreno (now deceased) were each the owners of a one-half interest in two parcels of improved real property in Santiago, Cuba with certain personal property therein, further described below.

One of the parcels of improved real property, an apartment house, was located at No. 168 San German, Santiago. The Commission finds that this property was within the purview of the Urban Reform Law of October 14, 1960 and, in the absence of evidence to the contrary, the property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The second parcel of realty was the family residence at No. 357 Reloj, Santiago.

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.

In the absence of evidence to the contrary, the Commission finds that claimants' residence and certain household and personal effects were taken

by the Government of Cuba on July 10, 1968 when claimants left Cuba. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Under the intestate succession law of the State of Florida each of the claimants herein succeeded to a one-third interest in the estate of decedent, Celeste Parreno. Accordingly, claimant CELESTE P. MONAHAN, as Guardian of the Person and Property of JULIAN ADOLFO PARRENO, Incompetent, holds a two-thirds interest in the properties claimed and claimants CELESTE P. MONAHAN, Individually, and JULIET PARRENO STECKI each have a one-sixth interest.

Although the claim for loss of the residence and personalty 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 Lopez Morales, Claim No. CU-8739.) This is such a claim.

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 property at No. 168 San German, Santiago, was comprised of 212 square meters of land improved with a two-story apartment house of six units. The building was erected in 1957. The report from abroad states

that the building was constructed for \$14,000.00. Claimants state that such value was for tax purposes only; that they themselves put \$17,500.00 into it; that upon completion they had several offers from real estate agencies in the amount of \$32,000.00.

The property at No. 357 Reloj, Santiago was comprised of 289 square meters of land improved with the family residence. This residence was a four-bedroom house with two baths. The report from abroad states that it was acquired in 1956 and its value was \$17,000.00. Claimants state that they spent \$5,000.00 for repairs to the roof, walls, floors and for remodeling.

Based upon the entire record including appreciation and depreciation factors, and information available to the Commission of comparable income producing and residential properties in Santiago, the Commission finds that at the time of loss the apartment house at No. 168 San German had a value of \$32,100.00 and the family residence at No. 357 Reloj had a value of \$21,600.00.

Personal Property

With respect to the personalty in the family residence, claimants have submitted a list of furniture and fixtures and personal effects with values representing their estimated replacement cost. The Commission however has held that replacement values refer to replacement in kind. It appears from the record that the average date of acquisition of this personalty was 1956, thus having an age of 12 years at the time of loss. 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 the personalty at 357 Reloj Street, including a 12-year-old automobile, owned by claimant JULIAN ADOLFO PARRENO and his spouse (now deceased) had a value of \$3,000.00 on the date of loss.

Bank Accounts and Jewelry

Claimants state that they were the owners of two bank accounts in Cuba, namely, the Royal Bank of Canada in the amount of \$2,630.86 and the National

City Bank of New York, in the amount of \$2,749.17.

In addition, claimants state that at the time they were leaving Cuba the Cuban authorities took from their persons jewelry in the amount of \$2,500.00.

The Commission is unable to ascertain these facts and finds that claimants have failed to substantiate this portion of the claim with any probative evidence.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d)(1970).)

Accordingly these items of the claim are hereby denied.

Loss of Rental Income

Claimants state that they lost rentals since June 1, 1959 and now assert a loss for this item in the amount of \$23,221.80. The evidence does not establish that any rent was due from June 1, 1959 to October 14, 1960 and that it was taken by the Government of Cuba. Also, the Commission has held that rental income due after the date of nationalization or taking of a property is not certifiable within the scope of Title V of the Act (see Claim of The University of Chicago, Claim No. CU-2590). Inasmuch as the property after the date of taking no longer belonged to the claimants but to the Government of Cuba, claimants are not entitled to certification of rental losses in addition to those for the value of the property at the time of taking. However, claimants are entitled to accrued interest on the principal amount of losses (see below).

Recapitulation

Claimants' losses are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
Real Property at 168 San German	October 14, 1960	\$32,100.00
Real Property at 357 Reloj	July 10, 1968	21,600.00
Personal Property at 357 Reloj	July 10, 1968	3,000.00
		<u>\$56,700.00</u>

The Commission concludes that claimants sustained a loss, within the meaning of Title V of the Act, as follows:

<u>Claimant</u>	<u>Interest</u>	<u>Amount</u>
CELESTE P. MONAHAN, Guardian of the Person and Property of JULIAN ADOLFO PARRENO, Incompetent	2/3	\$37,800.00
CELESTE P. MONAHAN	1/6	9,450.00
JULIET PARRENO STECKI	1/6	<u>9,450.00</u> \$56,700.00

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>
CELESTE P. MONAHAN, Guardian of the Person and Property of JULIAN ADOLFO PARRENO, Incompetent	October 14, 1960 July 10, 1968	\$21,400.00 <u>16,400.00</u> \$37,800.00
CELESTE P. MONAHAN, Individually	October 14, 1960 July 10, 1968	\$ 5,350.00 <u>4,100.00</u> \$ 9,450.00
JULIET PARRENO STECKI	October 14, 1960 July 10, 1968	\$ 5,350.00 <u>4,100.00</u> \$ 9,450.00

CERTIFICATIONS OF LOSS

The Commission certifies that CELESTE P. MONAHAN, Guardian of the Person and Property of JULIAN ADOLFO PARRENO, Incompetent, 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 Thirty-Seven Thousand Eight Hundred Dollars (\$37,800.00) with interest at 6% per annum from the respective dates of loss to the date of settlement; and


The Commission certifies that CELESTE P. MONAHAN, Individually, suffered a loss, as a result of actions of the Government of Cuba, within the scope of

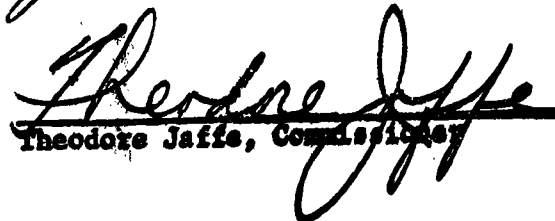
Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nine Thousand Four Hundred Fifty Dollars (\$9,450.00) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that JULIET PARRENO STECKI 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 Nine Thousand Four Hundred Fifty Dollars (\$9,450.00) 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

APR 28 1971


Lyle S. Garlock, 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 (1970).)