

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

IN THE MATTER OF THE CLAIM OF

MERCEDES ALVAREZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-4756

Decision No. CU 5536

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 MERCEDES ALVAREZ. She has since presented claim in the amount of \$14,120.45 based upon the asserted loss of certain real and personal property in Havana, 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.

Claimant asserts the following losses:

House and lot at 111 Calle A, Capdevila, Havana	\$ 9,607.45
A lot at Mantilla, Havana	1,400.00
Personal property	<u>3,113.00</u>
Total	<u>\$14,120.45</u>

REAL PROPERTY

The record includes a copy of a deed; a copy of claimant's detailed affidavit executed in Havana, Cuba on August 16, 1968; a statement, dated November 19, 1967, from claimant's brother who is familiar with her properties; and claimant's statements to the Commission. On the basis of the foregoing, the Commission finds that claimant and her husband, apparently a nonnational of the United States, each owned a one-half interest in a house and lot at 111 Calle A, Capdevila, Havana, and a one-half interest each in a lot at Mantilla, Havana, pursuant to the community property laws of Cuba. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.)

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette XXIII, No. 237, p. 23705) which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who left the country.

It appears that claimant was unable to leave Cuba prior to August 16, 1968. In the absence of evidence to the contrary, the Commission finds that claimant's property was taken by the Government of Cuba on January 15, 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].) Although title to the property passed to Cuba on January 15, 1967, claimant remained in possession of the premises until her exit from Cuba.

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Based upon the evidence of record, the Commission finds that on January 15, 1967, the date of loss, the house and lot at Capdevila, Havana, had a value of \$9,607.45 and the lot at Mantilla, Havana, had a value of \$1,400.00. Therefore, claimant's one-half interests in the properties had values of \$4,803.73 and \$700.00, respectively.

PERSONAL PROPERTY

The Commission finds on the basis of the evidence of record that claimant and her husband each owned a one-half interest in furniture and other items of personal property maintained in the house at Capdevila, Havana. The Commission further finds that said personal property was also taken by the Government of Cuba on January 15, 1967.

Claimant has submitted a detailed list of the items of personal property, indicating the dates of acquisition and the costs thereof. The Commission finds that said property was subject to depreciation at the rate of 5% per year. Accordingly, the Commission finds that the items of property had the following values on January 15, 1967:

<u>DATE ACQUIRED</u>	<u>ORIGINAL COST</u>	<u>DEPRECIATION</u>	<u>AMOUNT</u>
1946	\$1,335.00	(residual value)	\$ 267.00
1950	90.00	80%	18.00
1954	50.00	62-1/2%	18.75
1956	503.00	50%	251.50
1957	475.00	47-1/2%	249.40
1958	300.00	45%	165.00
1960	300.00	30%	210.00
1966	60.00	-	60.00
		Total	<u>\$1,239.65</u>

Therefore, claimant's one-half interest therein had a value of \$619.82.

Claimant's losses are summarized as follows:

<u>ITEM OF PROPERTY</u>	<u>AMOUNT</u>
House and Lot	\$4,803.73
Lot	700.00
Personal Property	<u>619.82</u>
Total	<u>\$6,123.55</u>


The Commission has decided that in certification of losses 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 the Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case, it is so ordered.

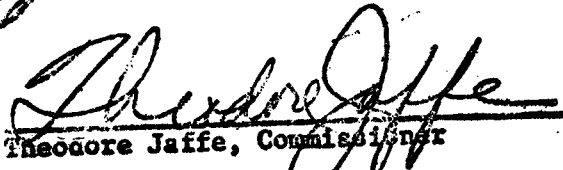
CERTIFICATION OF LOSS

The Commission certifies that MERCEDES ALVAREZ 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 Six Thousand One Hundred Twenty-three Dollars and Fifty-five Cents (\$6,123.55) with interest at 6% per annum from January 15, 1967 to the date of settlement.

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

AUG 6 - 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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].)

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