

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

IN THE MATTER OF THE CLAIM OF

ALEXANDER D. DUNCAN
and
GLADYS A. DUNCAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -8447

Decision No. CU -4218

AMENDED FINAL DECISION

By Proposed Decision issued on November 26, 1969, the Commission certified losses to ALEXANDER D. DUNCAN and GLADYS A. DUNCAN in the amounts of \$5,229.68 and \$1,273.01, respectively, based upon their stock interests in Fabrica Nacional de Pinturas, S.A., and for debts owed by a nationalized Cuban enterprise. The portion of the claim that is based upon the loss of a bank deposit was denied for failure of proof. Additional evidence was thereafter received and the Commission by Amended Proposed Decision issued January 7, 1970 restated its certification of claimants' losses as \$5,408.15 and \$1,451.49, respectively. The Amended Proposed Decision became Final on February 10, 1970.

Subsequently, the Commission determined, in the Claim of Paul E. Sprague, CU-3798, that each share of Fabrica Nacional de Pinturas had a value of 7.6173 on the date of loss.

Upon reconsideration of this matter, it is

ORDERED that the Final Decision be and it is hereby amended as follows:

The Commission now finds that ALEXANDER D. DUNCAN suffered a total loss of \$6,946.98 in connection with his Pinturas shares, and GLADYS A. DUNCAN suffered a loss of \$1,691.04 in connection with her Pinturas shares.

Claimants' total losses within the scope of Title V of the Act are summarized as follows:

<u>ITEM</u>	<u>DATE OF LOSS</u>	<u>AMOUNT</u>
<u>ALEXANDER D. DUNCAN:</u>		
912 Pinturas shares	October 13, 1960	\$6,946.98
Debt	October 13, 1960	547.20
Bank account	December 6, 1961	178.47
		<u>\$7,672.65</u>
<u>GLADYS A. DUNCAN:</u>		
222 Pinturas shares	October 13, 1960	\$1,691.04
Debt	October 13, 1960	133.20
Bank account	December 6, 1961	178.48
		<u>\$2,002.72</u>

Accordingly, the certifications of loss as restated below will be entered and in all other respects the Final Decision is affirmed.


CERTIFICATION OF LOSS

The Commission certifies that ALEXANDER D. DUNCAN 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 Seven Thousand Six Hundred Seventy-Two Dollars and Sixty-Five Cents (\$7,672.65) with interest at 6% per annum from the respective dates of loss to the date of settlement; and


The Commission certifies that GLADYS A. DUNCAN 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 Two Thousand Two Dollars and Seventy-Two Cents (\$2,002.72) 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 Amended Final
Decision of the Commission

8 APR 1970


Lyta S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freilberg, Commissioner

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AMENDED PROPOSED DECISION

By Proposed Decision issued on November 26, 1969, the Commission certified losses to ALEXANDER D. DUNCAN and GLADYS A. DUNCAN in the amounts of \$5,229.68 and \$1,273.01, respectively, based upon their stock interests in Fabrica Nacional de Pinturas, S.A., and for debts owed by a nationalized Cuban enterprise. The portion of the claim that is based upon the loss of a bank deposit was denied for failure of proof.

Subsequently claimants submitted additional evidence.

Upon consideration of this matter, it is

ORDERED that the Proposed Decision be and it is hereby amended as follows:

Claim is also asserted for the loss of a bank deposit in the amount of \$350.00. Claimants submitted a letter from The Trust Company of Cuba dated January 4, 1960 indicating a balance of \$356.95 in the claimants' checking account.

On the basis of this evidence, the Commission finds that claimants jointly had on deposit with The Trust Company of Cuba a total of \$356.95, the peso being on a par with the United States dollar.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all goods and chattels, rights, shares, stocks, bonds and other securities of persons who had left the country. The Commission has held that this includes bank accounts (see Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].) As the record shows, on May 15, 1960 claimants were residents of the United States. In the absence of evidence to the contrary, the Commission finds that the funds owing to the claimants in the amount of \$356.95 were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Accordingly, the Commission finds that claimants jointly suffered a loss in the sum of \$356.95 within the scope of Title V of the Act.

Accordingly, the certifications of loss, as restated below, will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that ALEXANDER D. DUNCAN 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 Five Thousand Four Hundred Eight Dollars

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and Fifteen Cents (\$5,408.15) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

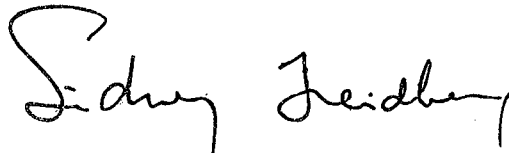
The Commission certifies that GLADYS A. DUNCAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Four Hundred Fifty-one Dollars and Forty-nine Cents (\$1,451.49) 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 Amended Proposed Decision of the Commission

7 JAN 1970



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities for the loss here certified.

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 Amended 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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PROPOSED DECISION

Claimants, ALEXANDER D. DUNCAN and GLADYS A. DUNCAN, who owned stock interests in Fabrica Nacional de Pinturas, S.A., assert a claim in the total amount of \$5,450.00 under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of Paul E. Sprague (Claim No. CU-3798 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on October 13, 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 \$5.1343.

On the basis of evidence in the record in the instant case, the Commission finds that these claimants come within the terms of the Sprague decision; that they were American nationals at the requisite times; that ALEXANDER D. DUNCAN has been the owner of 912 shares and GLADYS A. DUNCAN has been the owner of 222 shares

of stock in Fabrica Nacional de Pinturas, S.A., since prior to October 13, 1960; and that they suffered losses in the amount of \$4,682.48 and \$1,139.81, respectively, within the meaning of Title V of the Act.

Additionally the Commission finds that on October 13, 1960 ALEXANDER D. DUNCAN was owed a debt of \$547.20 and GLADYS A. DUNCAN was owed a debt of \$133.20 for dividends declared on December 21, 1959 (see Sprague, supra) which constituted losses within the meaning of Title V of the Act.

Claimants also state that they suffered the loss of a bank deposit in the amount of \$350.00.

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) (Supp. 1967).)

No evidence has been submitted in support of this item of claim and it is accordingly denied.

The Commission also finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for the settlement thereof. (See Sprague, supra.)

CERTIFICATION OF LOSS

The Commission certifies that ALEXANDER D. DUNCAN 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 Five Thousand Two Hundred Twenty-nine Dollars and Sixty-eight Cents (\$5,229.68) with interest at 6% per annum from October 13, 1960 to the date of settlement; and

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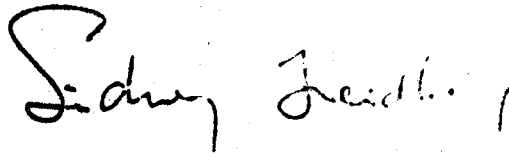
The Commission certifies that GLADYS A. DUNCAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Two Hundred Seventy-three Dollars and One Cent (\$1,273.01) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

NOV 26 1969



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

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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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