

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

IN THE MATTER OF THE CLAIM OF

VIVIAN LOPEZ MORALES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8739

Decision No. CU - 6035

PROPOSED DECISION

This Commission had opened Claim No. CU-4309 on behalf of VIVIAN LOPEZ MORALES based upon losses which she might have sustained as a result of actions by the Government of Cuba since January 1, 1959. She returned to continental United States and was given material for filing claim. The Commission did not hear from her within a reasonable time and that claim was dismissed.

Claimant having been ill, has since filed this claim, which the Commission considers timely filed, based on a bank account in 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.

The claim is based solely upon a Savings Account No. 22488, in Agency 4-10-20 of the National Bank of Cuba, formerly The Trust Company of Cuba. Claimant states that this was maintained since the time she was unmarried. Pursuant to the Community Property Law of Cuba it therefore appears to be her sole property. A photocopy of the bank book, retained in the file, indicates transactions between April 27, 1961 and September 1969, with a balance on September 26, 1969 of 3,430.89 pesos (the peso being on a par with the dollar).

Section 503(a) of the Act (supra) provides for the Commission to determine certain claims of United States nationals, and continues:

. . . if such claims are submitted to the Commission within such period specified by the Commission by notice published in the Federal Register (which period shall not be more than eighteen months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

On November 1, 1965, the Commission filed notice with the Federal Register that it would receive, during the period ending at midnight, May 1, 1967, claims against the Government of Cuba.

Under the Commission's regulations, any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (FCSC Reg., 45 C.F.R. §531.1(g) (1970).)

There is no question that claim was timely filed for claimant. The question for consideration, however, is whether the Commission may properly

consider on its merits a claim for loss of a bank account which the Commission may find was taken on or about the time claimant left Cuba, a date subsequent to the close of the filing period.

The declared purpose of the Congress in enacting this legislation was to provide a vehicle for American nationals to have the validity and amounts of their losses decided by the Commission and reported to the Secretary of State for possible use in future negotiations of a claims settlement agreement with a friendly Government in Cuba.

In view of this purpose, the Commission holds that it will accept for consideration on their merits claims arising after the deadline so long as consideration thereof does not impede the determination of claims which were timely filed and based on losses arising prior to the deadline. Thus in this case, the filing of the claim is considered as timely because of the Commission's class action on behalf of claimants outside the continental United States; and further, the claim itself arising from the loss of the bank account subsequent to the close of the filing period shall be considered on its merits while such consideration does not impede determination of claims which arose prior to the close of the filing period.

The Commission finds that VIVIAN LOPEZ MORALES was the sole owner of a bank account in the National Bank of Cuba, having a balance of \$3,430.89.

On December 6, 1961, the Government of Cuba had published its Law 989 which operated to confiscate property interests of persons who left Cuba.

The Commission finds that claimant's bank account was taken by the Government of Cuba pursuant to Law 989 (see Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]), and that this taking occurred on February 25, 1970 when it appears that in fact she left Cuba.

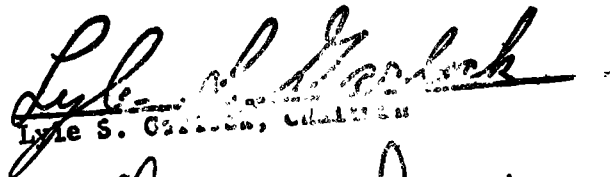
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

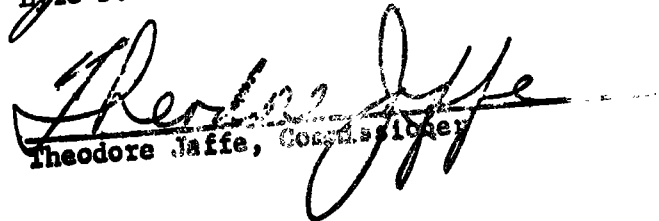
CERTIFICATION OF LOSS

The Commission certifies that VIVIAN LOPEZ MORALES 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 Four Hundred Thirty Dollars and Eighty-nine Cents (\$3,430.89) with interest thereon at 6% per annum from February 25, 1970 to the date of settlement.

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

JAN 12 1971


Lyle S. Galtman, 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).)