

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

IN THE MATTER OF THE CLAIM OF

ORTON EARL TARBOX  
GERTRUDE TINSLEY TARBOX

Claim No. CU - 0169

Decision No. CU **781**

Under the International Claims Settlement  
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$37,497.23, as amended, was presented by ORTON EARL TARBOX and GERTRUDE TINSLEY TARBOX based upon the loss of bank accounts, the inventory of a private school and other personal property in Cuba. Claimants have been nationals of the United States since their births in the United States.

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.

Claimants contend that they have lost three bank accounts in Cuba having a balance of 16,524.23 pesos. The record establishes that claimants had a balance of 2653.17 Cuban pesos on deposit with the Havana branch of The Chase Manhattan Bank; a balance of 13,000 pesos on deposit with the Havana branch of The Royal Bank of Canada; and a balance of 1,371.06 pesos on deposit with the Havana branch of The First National City Bank of New York.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these things affect the account of the claimants in Claim No. CU-0169

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-0169 in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. In the absence of evidence to the contrary, the Commission finds that claimants' above-described bank account, totalling 17,024.23 pesos, was taken by the Government of Cuba on December 6, 1961. (See the Claim of Floyd W. Auld, FCSC Claim No. CU-0020.)

Further, the Commission finds that on December 6, 1961, claimants' 17,024.23 pesos had a value of \$17,024.23 and that they suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of the bank accounts by the Government of Cuba as of December 6, 1961.

A portion of this claim is based upon the nationalization by the Cuban Government of the inventory of a private school conducted and owned by the claimants. The record contains a brochure entitled The Tarbox School of English, wherein the functions of the school, namely the teaching of the English language and secretarial skills, are described. The record further contains the sworn statements of former teachers in the school, attesting to the fact that the claimants did own and conduct a school for the study of the English language in Havana, Cuba. The affidavits describe the school to have been in excellent condition fully equipped with classrooms, conference rooms, and office and classroom furniture. The record further contains the affidavit of a former student of the school, describing it as modern, air-conditioned and located in one of the nicest neighborhoods. The record further contains a statement from the owner of a nearby school.

The record further contains a letter dated November 21, 1961, addressed to the claimants in Miami, Florida, stating that the claimants' school and apartment had been confiscated by the Cuban Government. The record shows that the claimants left Cuba on December 18, 1960, for a vacation in Florida, and did not return to Cuba.

Claimants have submitted an itemized list of the inventory of the school including furniture and equipment as well as the furniture and clothing located in their apartment.

On the basis of the entire record, the Commission finds that claimants owned and conducted a private school in Havana, Cuba and owned furniture and clothing located in their apartment in Havana, Cuba.

As the record shows, the claimants have resided in Florida since leaving Cuba on December 18, 1960. The Commission finds, in the absence of evidence to the contrary, that the assets of the school as well as the furniture and clothing of the apartment were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989 (supra).

Based on the entire record, the Commission finds that the inventory of the school including its furniture, typewriters, books and other teaching equipment as well as the furniture and clothing located in the claimants' apartment had a value of \$20,473.00 and that claimants suffered a loss in that amount within the meaning of Title V of the Act.

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, FCSC Claim No. GU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ORTON EARL TARBOX and GERTRUDE TINSLEY TARBOX 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 Four Hundred Ninety-Seven Dollars and Twenty-Three Cents (\$37,497.23) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement.

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

6 DEC 1967

This is a true and correct copy of the decision of the Commission which was entered on the Final Decision of

*[Handwritten signature]*  
Clerk of the Commission

*[Handwritten signature: Edward D. Re]*  
Edward D. Re, Chairman

*[Handwritten signature: Theodore Jaffe]*  
Theodore Jaffe, Commissioner

*[Handwritten signature: LaVern R. Dilweg]*  
LaVern R. Dilweg, 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).)