

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

IN THE MATTER OF THE CLAIM OF

ANA MARIA LOPEZ GUTIERREZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0197

Decision No. CU **1142**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$105,000.00, was presented by ANA MARIA LOPEZ GUTIERREZ based upon the asserted ownership and loss of personal property including a check of the National City Bank of New York in Havana, Cuba, in the amount of 100,000 Cuban pesos payable to claimant, and certain household furnishings. Claimant has been a national of the United States since her naturalization on February 3, 1939.

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.

In support of her claim, claimant has submitted evidence regarding the furniture and household furnishings owned by her which were left on the premises occupied by her at 912 Calle No. 11, Vedado, Havana, Cuba, at the time of her departure in July 1960, and a check dated March 31, 1960, made out to claimant as payee and drawn on The National City Bank of New York in Havana, Cuba, in the amount of 100,000 pesos.

Claimant states that she endeavored to have the check honored by The National City Bank of New York at its office in New York City but without success. That Bank has advised the Commission that payment was refused and that, although its Havana branch was not separately incorporated, it was maintained and operated as a distinct business entity. The bank further stated that the Government of Cuba had seized all the assets of the Havana branch and therefore assumed its liabilities. On the basis of the evidence, the Commission finds that claimant had on deposit with the Havana Branch the sum of 100,000 pesos payable on her demand.

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 included bank accounts. (See the Claim of Floyd W. Auld, FCSC Claim No. CU-0020.) As the record shows, on August 1, 1960, claimant was a resident of San Juan, Puerto Rico. In the absence of evidence to the

contrary, the Commission finds that the personal property and funds owing to the claimant in the amount of 100,000 pesos were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

In determining the value of the furniture and household furnishings lost, the Commission has considered claimant's statement concerning the cost of the claimed items and finds that at the time of loss, the furniture and household furnishings had a total value of \$3,480.00. The Commission further finds that on December 6, 1961 claimant's check for 100,000 pesos had a value of \$100,000.00, and concludes that claimant suffered a loss in the total amount of \$103,480.00 within the meaning of Title V of the Act as a result of the action of the Government of Cuba on December 6, 1961.

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. CU-0644.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$103,480.00 from December 6, 1961 to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ANA MARIA LOPEZ GUTIERREZ 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 Hundred Three Thousand Four Hundred Eighty Dollars (\$103,480.00), 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

FEB 7 1968

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 13 1968

James M. ...
Chief of the Commission

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).)