

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

IN THE MATTER OF THE CLAIM OF

MARY D. SILVA

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU -0253

Decision No. CU 5863

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$82,500.00, was presented by MARY D. SILVA based upon the asserted loss of real and personal property 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.

Claim is made herein for a one-half interest in the following property assertedly owned by claimant and her husband, a Cuban national:

<u>Property</u>	<u>Value Claimed</u>
Buildings known as Clinica Moderna at Calle Primera del Este & Tercera del Norte, Placetas	\$ 70,000.00
Medical equipment, instruments, medical supplies, and furniture for Clinica Moderna on above premises	30,000.00
Building with three apartments and five stores at Paseo Marti & Central Highway	45,000.00
Small farm. Santa Elena, one cab in Manajanabo, Cuba, and buildings	16,000.00
Personal property including 1951 Pontiac, clothes, jewelry, and furnishings	<u>4,000.00</u>
	\$165,000.00

The evidence includes photographs of the Clinica Moderna, both exterior and interior, affidavits of persons acquainted with claimant, an affidavit of Raul Pujol who sold the property containing the medical clinic and built an additional building for claimant and her husband at that location, and reports received from abroad. On the basis of the foregoing, the Commission finds that claimant owned a one-half interest in the claimed real and personal property.

On December 6, 1961, the Cuban Government published in its Official Gazette its Law 989 which affected the confiscation of all assets, personal property and other rights of persons who had left the country. The Commission finds that this law applied to claimant who had left Cuba prior to that date, and that her interests in the real and personal property

were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Based upon the evidence of record and information available to the Commission concerning the values of similar properties and the depreciation applicable, the Commission finds the values of the properties taken were as follows:

Real property at Calle Primera del Este and Tercera del Norte, Placetas, site of Clinica Moderna	\$ 70,000.00
Medical equipment, instruments, supplies and furniture for Clinica Moderna	30,000.00
Real property at Paseo Marti and Central Highway, Pacetas containing three apartments and five stores	32,000.00
Santa Elena farm, one cab, buildings	5,000.00
Personal property	<u>3,700.00</u>
Total	\$140,700.00

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$70,350.00 for her one-half interest within the meaning of Title V of the Act, as the result of the taking of the property by the Government of Cuba on December 6, 1961.

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.

CU-0253


CERTIFICATION OF LOSS

The Commission certifies that MARY D. SILVA 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 Seventy Thousand Three Hundred Fifty Dollars (\$70,350.00) 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

SEP 23 1970


Louis S. Carlock, 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. 31.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)