

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

IN THE MATTER OF THE CLAIM OF

OSCAR CALVET  
and  
HAZEL CALVET

Claim No. CU -0354

Decision No. CU 5856

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, was presented by OSCAR CALVET and HAZEL CALVET for \$31,000.00 based upon the asserted ownership and loss of real property and an investment in Cuba. Claimants have been nationals of the United States since naturalization in 1941 and 1943, respectively.

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 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) (1969).)

Claimants describe their losses as follows:

- |  |             |
|--|-------------|
| 1) 2 farms in San Juan de los Yeros,<br>Santa Clara (Las Villas) | \$12,000.00 |
| 2) 4 houses, Rodas, Santa Clara<br>(Las Villas)                  | 15,000.00   |
| 3) Investment  | 4,000.00    |

Real Property

Claimants have submitted in connection with this item copies of earlier correspondence with the Department of State. In one of these letters, dated March 25, 1962, they state that the two small farms were purchased on February 19, 1945; that two houses were purchased on May 13, 1929; and that one house was purchased on September 18, 1941.

Thereafter claimants submitted requests for the Commission to attempt to obtain evidence for them. These appear to cover the following:

Independencia and Calixto Garcia Streets, Rodas

- 1) Lot 772, block 117, 302 square meters
- 2) Lot 22, block 118, a family house on a plot  
10-1/2 varas by 20 deep
- 3) Lot 24, block 119, a family house on a plot  
20 varas by 50 deep

Farms El Carmen and Los Cedros,  
San Juan de los Yeros, Las Villas

- 4) Farm 311, Registry 694
- 5) Farm 312, Registry 695

Apparently it is asserted that there was a house on one of these farms.

Additionally, claimant submitted copy of a power of attorney of August 24, 1959, authorizing his brother to represent him before the National Institute of Agrarian Reform, in connection with the farms; a declaration to INRA of proprietorship; an acknowledgement of same from INRA; letter of Treasurer of City of San Juan de los Yeros forwarding receipts for taxes paid on the farms; and ten papers said to be receipts for taxes paid on properties at C. Garcia Street and Independencia Street.

Based on the aforesaid record, the Commission finds that claimants owned equal interests in the following:

- 1) Lot 772 of about 302 square meters
- 2) Lot 22 of about 420 square meters improved by a house
- 3) Lot 24 of about 1,000 square meters improved by a house
- 4) Farm 311
- 5) Farm 312

One of the above having a country house.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXVIII, No. 237, p. 23705) which effected confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real properties were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

In arriving at the value of the aforesaid properties the Commission has considered the tax receipts, the areas involved in items (1), (2) and (3) and the fact that the two family houses thereon are not described in any detail in the record; the description of the farms as small and the related dwelling described as a country house, as well as the values ascribed to these farms in reports from abroad.

On the basis of the entire record, and evidence available to the Commission as to value of other property in nearby areas, the Commission finds that the realties had the following values on the date of loss:

1) Lot 772	\$ 604.00
2) Lot 22 and house	3,840.00
3) Lot 24 and house	5,000.00
4) Farm 311,	
5) Farm 312,	
and house	<u>3,500.00</u>
	\$12,944.00

Accordingly, the Commission concludes that each claimant suffered a loss in the amount of \$6,472.00 within the meaning of Title V of the Act, as the result of the taking of their real properties by the Government of Cuba on December 6, 1961.

#### Investment

Claimants have described this item of claim as an investment in Cia. Distribuidora de Peliculas "Negrete", S.A. They have submitted photocopies of two cancelled checks, one No. 750, for \$1,301.64 made to Dr. Francisco Negrete was to be used as payment to Screen Guild Productions, N.Y.C. for pictures; Check 751 to Screen Art Sales Co., for \$400.00 was also for the purchase of pictures; additionally, Check No. 750 bears a note which claimant describes as meaning a third check No. 752 for \$1,000.00 was made to Ata Trading Corp., N.Y.C. also for the purchase of pictures. Claimants assert that these funds, plus cash turned in at the office in Havana on trips there, are more than the claim on this item.

Claimants state that they have nothing further to submit in this regard.

There is nothing of record to show in what manner the Government of Cuba may have taken this investment, made in 1958, according to the cancelled checks.

The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. Thus, the Commission finds that claimants herein have not met the burden of proof with respect to this investment in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated, or otherwise taken by the Government of Cuba. Accordingly, the Commission is constrained to deny this portion of the claim and the claim is hereby denied.

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 OSCAR CALVET 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 Six Thousand Four Hundred Seventy-two Dollars (\$6,472.00) with interest at 6% per annum from December 6, 1961 to the date of settlement, and

The Commission certifies that HAZEL CALVET 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 Six Thousand Four Hundred Seventy-two Dollars (\$6,472.00) with interest 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

  
Lyle S. Garlock, 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, 32 Fed. Reg. 412-13 (1967).)