

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

IN THE MATTER OF THE CLAIM OF

CHESTER E. DAVIS  
HAZEL L. DAVIS  
CHESTER CLARK DAVIS

Claim No. CU -0377

Decision No. CU -5910

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on October 21, 1970;  
No hearing requested.

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Hearing on the record held on November 17, 1970.

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FINAL DECISION

The Commission issued its Proposed Decision in this claim on October 21, 1970, denying the claim in part for the reason that claimants failed to establish ownership of rights and interests in property which was nationalized or otherwise taken by the Government of Cuba; and certifying losses of claimants in connection with stock interests in a Cuban corporation known as Cia. Inspiracion Cubana de Cobre, S.A.

With respect to a portion of the claim, in the amount of \$2,500.00, based upon the loss of an asserted investment in a land transaction in Cuba, the Commission determined that there was insufficient evidence to establish that the land in question was effectively transferred to claimant and his associates or that the corporation in question, known as Inversiones de la Vega, in which claimant assertedly owned a stock interest, was ever formed as a legal entity under the applicable laws of Cuba. The Commission thus determined that the investment of \$2,500.00 not being a debt of or a stock interest in a nationalized Cuban corporation does not come within the scope of Title V of the Act. The Commission was constrained to deny this portion of the claim.


Claimant objected only to the denial of the portion of the claim asserted for loss of the \$2,500.00 investment in the land transaction, as described above, and affirms that the corporation was in fact formed. However, claimant has not submitted evidence to establish this portion of the claim.

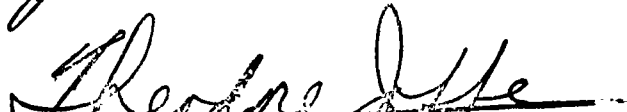
Full consideration having been given to the objections of the claimants, and the entire record, including claimants' objections which have been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

NOV 23 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

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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 CHESTER E. DAVIS, in the total amount of \$21,400.00, based upon the asserted ownership and loss of personal property in Cuba, including stock interests in corporations. Thereafter HAZEL L. DAVIS and CHESTER CLARK DAVIS were added as claimants. Claimants have been nationals of the United States at all times pertinent to this claim.

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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

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. CHESTER E. DAVIS

Part ownership in 1957 Oldsmobile automobile;  
Monroe Calculator;  
500 shares of Cia. Inspiracion Cubana de Cobre;  
2500 shares of Inversiones de la Vega; and  
250 shares of Cia. Petrolera Federal, later merged  
with Consolidated Petroleum Corporation.

2. HAZEL L. DAVIS

Part ownership in 1957 Oldsmobile automobile; and  
4300 shares of Cia. Inspiracion Cubana de Cobre, S.A.

3. CHESTER CLARK DAVIS

1200 shares of Cia. Inspiracion Cubana de Cobre, S.A.

The claimants have submitted evidence in support of their claims which includes certain stock certificates, affidavits, correspondence, a brochure prepared in 1958 concerning Cia. Inspiracion Cubana de Cobre, S.A., hereafter referred to as Cubana de Cobre, an invoice issued in 1952 pertaining to a Monroe calculator, a Title Certificate to 1957 Oldsmobile Holiday Sedan, issued in Ohio, a list of personalty, as well as a copy of Private

Law 90-251, 90th Congress, Approved June 5, 1968. The record also includes a State Department file concerning the property subject of this claim, which also shows that claimant CHESTER E. DAVIS was formerly employed in the American Embassy in Havana as an Agricultural Attache and he remained in this capacity until early January 1961.

A communication to the Department of State, dated March 20, 1961, states that the personal and household effects of CHESTER E. DAVIS were sent to the United States via PAA air cargo. They were despatched to Miami, Florida, on February 12, c/o Withers Storage Company.

It further appears that prior to leaving Cuba, claimant CHESTER E. DAVIS rented an apartment at #4003, 5th Avenue A, Marianao, Cuba, which was assertedly taken by the Cuban Militia in 1961; and that the furnishings in the apartment included certain household effects, with an original value of \$3,100.00 and a resale value in the estimated amount of \$1,092.00. Private Law 90-251, 90th Congress, S-233, Approved June 5, 1968, authorized payment of \$2,000.00 to claimant CHESTER E. DAVIS; and further provided that the payment of such sum should be in full satisfaction of all claims of the said CHESTER E. DAVIS against the United States for clothing, furniture and household effects lost by him while serving in Cuba.

With respect to the Monroe calculator and the 1957 Oldsmobile automobile, claimant CHESTER E. DAVIS has submitted an invoice of the H. B. Jeffre corporation issued in 1952 indicating that he bought such machine for \$450.00; and claimants have submitted title certificate, with endorsement, showing that CHESTER E. DAVIS and HAZEL L. DAVIS purchased the 1957 Oldsmobile Holiday Sedan. The Commission made suggestions to claimants in development of this portion of their claim, more especially with respect to the loss and value of the property in question. Claimants have failed, however, to establish that the Government of Cuba nationalized or otherwise expropriated the calculator and automobile; and no evidence was submitted to establish the value of such items at time of loss. On the contrary, the record shows that the automobile

was stored early in 1961 and was later sold in 1964. The State Department, in letter of September 8, 1964, advised CHESTER E. DAVIS that the proceeds of the sale, in the amount of 600 pesos, had been placed in a "special trust fund account" for the claimant. The Commission finds that there is no evidence to establish that the items in question were taken by Cuba and this portion of the claim is denied.

With respect to the loss of stock interests in Cia. Petrolera Federal, merged into Consolidated Cuban Petroleum Corporation, organized under the laws of Delaware, claimant CHESTER E. DAVIS has established ownership of 250 shares of stock, evidenced by stock certificate No. C-448.

Section 505(a) of the Act provides that

(a) A claim under section 503(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered. . . .

Claimant has asserted this claim in his individual capacity for an interest in a corporation qualifying as a United States national under the Act. The Commission, however, is precluded under Section 505(a) of the Act, supra, from considering such stockholder claim. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FCSC Semiann. Rep. 48 [July-Dec. 1966].) Accordingly, this portion of the claim is hereby denied.

Claimant CHESTER E. DAVIS has informed the Commission that he and three associates intended to form a corporation under the laws of Cuba which was to be known as Inversiones de la Vega. The purpose of such corporation was to realize a profit from buying and selling of certain land in Cuba. Claimant invested \$2,500.00 in this venture and was to receive shares of stock of the corporation when such shares could be issued. Further, the record shows that the sum of \$10,000.00 was paid by claimant and his associates to the owner of certain land but the land in question was not effectively transferred to the claimant and associates because the revolutionary government seized control of Cuba and claimant and his associates left the area. The record does not show that the corporation was ever formed under the applicable laws of Cuba.

The Commission finds that the investment of \$2,500.00 cannot be construed as a debt of a nationalized Cuban corporation or a stock interest in a nationalized enterprise; and that no taking by the Government of Cuba of the sum in question has been established by the claimant. Thus, the Commission is constrained to deny this portion of the claim and it is hereby denied.

This leaves for determination the portions of the claim asserted by the claimants for loss of 6,000 shares of stock of Cubana de Cobre. The claimants have submitted evidence showing that they owned 6,000 shares of stock in this enterprise, including CHESTER E. DAVIS (500), HAZEL L. DAVIS (4300) and CHESTER CLARK DAVIS (1200); and the Government of Cuba nationalized this corporation on or about July 7, 1961, when the nationalization or taking was published in the Official Gazette of Cuba.

The corporation was founded in 1951 with the issuance of 600,000 shares at a par value of \$1.00 per share. It was engaged in the mining of copper, zinc, gold and silver. The output was increased from 50 metric tons of ore in 1955 to 110 metric tons in 1957. In 1958, the corporation issued a brochure for the solicitation and sale of 150,000 shares to the general public, at \$2.50 per share. Of the 150,000 authorized shares offered, the record shows that over 100,000 shares had been sold by the summer of 1958.

Based upon the entire record, the Commission finds that the value of a share of stock in Cubana de Cobre at the time of loss in 1961 was \$2.50 per share; and that claimants herein suffered losses in connection with their stock interests, within the meaning of Title V of the Act, as follows:

CHESTER E. DAVIS, 500 shares	\$ 1,250.00
HAZEL L. DAVIS, 4300 shares	10,750.00
CHESTER CLARK DAVIS, 1200 shares	3,000.00

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 this case it is so ordered.

CERTIFICATIONS OF LOSS


The Commission certifies that CHESTER E. DAVIS 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 Thousand Two Hundred Fifty Dollars (\$1,250.00) with interest at 6% per annum from July 7, 1961 to the date of settlement;

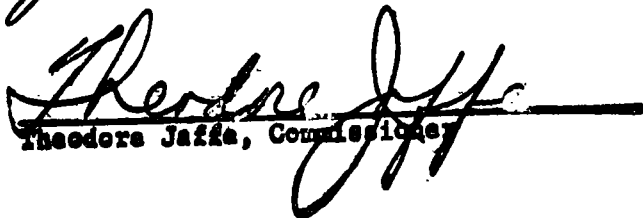
The Commission certifies that HAZEL L. DAVIS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Ten Thousand Seven Hundred Fifty Dollars (\$10,750.00) with interest at 6% per annum from July 7, 1961 to the date of settlement; and

The Commission certifies that CHESTER CLARK DAVIS 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 Dollars (\$3,000.00) with interest at 6% per annum from July 7, 1961 to the date of settlement.

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

**OCT 21 1970**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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].)