

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

IN THE MATTER OF THE CLAIM OF

ROBERT G. JAHELKA
CAROL M. JAHELKA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0420

Decision No. CU

844

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 ROBERT G. JAHELKA and CAROL M. JAHELKA, for \$61,000.00 based upon the asserted ownership and loss of interests in land, improvements thereon, and fruit trees. 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 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

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 they have lost investments in real property in Cuba valued at \$61,000.00. They have submitted a deed, dated July 15, 1954, duly registered with the Isle of Pines Registrar of Property, pursuant to which the grantors conveyed to claimants, ROBERT G. JAHELKA and CAROL M. JAHELKA, lot No. 139 of the farm Reina Amalia in the precinct of Sierra de Caballos, Isle of Pines, Cuba, consisting of 2 caballeria or 66.324 acres of land with improvements and fruit trees, for a total purchase price of 2,000 pesos.

Claimants have also submitted copies of tax receipts up to April 14, 1961, for payment of real estate taxes on the aforementioned realty.

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

As the record shows, in 1961 claimants were residing in the United States. The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

The Commission has considered the area, nature and location of claimants' land in comparison with other holdings in neighboring locations on the Isle of Pines and finds that it had a value of \$700 per acre, or a total value of \$46,426.80 on the date of loss. Similarly, the Commission finds that a one-story frame house thereon of an area of approximately 1200 square feet with a thatched roof had a value of \$1000, and that each of two smaller houses of an area of approximately 600 square feet had a value of \$500 at that time. Moreover, the Commission finds that 350 coconut and mango trees had a value of \$8,750.

Accordingly, the Commission concludes that claimants' aforementioned properties had a total value of \$57,176.80 and that each claimant suffered a loss with regard thereto in the amount of \$28,588.40 within the meaning of Title V of the Act, as of December 6, 1961.

The Commission has decided that in the 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 claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, 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 ROBERT G. JAHELKA 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 Twenty-Eight Thousand Five Hundred Eighty-Eight Dollars and Forty Cents (\$28,588.40) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

the Commission certifies that CAROL M. JAHELKA 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 Twenty-Eight Thousand Five Hundred Eighty-Eight Dollars and Forty Cents (\$28,588.40) 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

20 DEC 1967

CERTIFICATION

Edward D. Re
Edward D. Re, Chairman

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on JUN 22 1968

Theodore Jaffe
Theodore Jaffe, Commissioner

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).)