

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

IN THE MATTER OF THE CLAIM OF

MIRIAM M. FLETCHER

Claim No. CU - 0703

Decision No. CU - 4760

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

William J. Smith, Jr., Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$25,553.56, was presented by MIRIAM M. FLETCHER, and is based upon the asserted loss of real property in Cuba, the rent therefrom and attorney's fees. 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.

Claimant has asserted her loss as follows:

Land	\$16,250.00
Rent from 1959 to 1966	6,079.99
Interest on unpaid rent	1,055.31
Attorney's fees	<u>2,169.26</u>
Total	\$25,553.56 (sic)

In support of the claim, there have been submitted copies of annual statements setting forth claimant's interest in land in Cuba and her share of the rental income and expenses.

On the basis of the entire record, the Commission finds that claimant owned a 1/12 interest in Finca "La Gloria" and "Las Cuevas", which property was rented to Cuban enterprises and used primarily for the growing of sugar for the Atlantica del Golfo Sugar Company. The Atlantica del Golfo Sugar Company was nationalized by the Government of Cuba on August 6, 1960, and, in the absence of evidence to the contrary, August 6, 1960 is determined as the date of taking of the agricultural land known as "La Gloria" and "Las Cuevas".

Evidence of record establishes that claimant had an average annual income of \$975.41 for her 1/12 interest in the land and the last rental income received was for the period ending in June, 1958. Capitalizing this income at 6% provides a value of \$16,256.83 for claimant's ownership interest in the land. Additionally, claimant is entitled to two years unpaid rent from 1958 to 1960 in the amount of \$1,950.82 because of the Cuban Government's intervention in the contractual rights of the claimant by precluding transfers of funds abroad, pursuant to Law 568 of September 29, 1959. (See Claim of Etna Pozzolana Corporation, Claim No. CU-0049, 1967 FCSC Ann. Rep. 46.)

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$18,207.65 within the meaning of Title V of the Act.

A portion of this claim in the amount of \$9,303.56 is based upon rental income for the period from 1958 to the filing of this claim, interest on that rental income and attorney's fees. Concerning the unpaid rent, the rented property became the property of the Government of Cuba on August 6, 1960 and claimant would not be entitled to rental income thereafter. As for the attorney's fees, no specific provision is made in the statute for the inclusion in the certification of loss of attorney's fees or other expenses incurred by claimants in the filing of claims. Accordingly, these items of the claim are denied. (See Claim of Mary Pauline Seal, Claim No. CU-0059, 1967 FCSC Ann. Rep. 57.)

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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

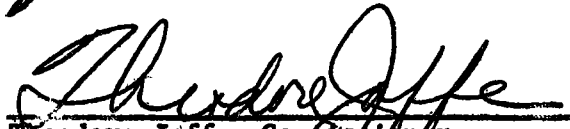
CERTIFICATION OF LOSS

The Commission certifies that MIRIAM M. FLETCHER 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 Eighteen Thousand Two Hundred Seven Dollars and Sixty-Five Cents (\$18,207.65) with interest at 6% per annum from August 6, 1960 to the date of settlement.

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

APR 22 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, 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).)