

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

IN THE MATTER OF THE CLAIM OF

LEOMA N. BODLE, Individually  
and as Executrix of the Estate of  
FRED W. TUCKER, Deceased

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0712

Decision No. CU 6221

Counsel for claimant:

Andrew F. O'Connell, Esq.

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 Leoma N. Tucker (now LEOMA N. BODLE) for \$54,515.00 based upon the asserted ownership and loss of certain real and personal property in Cuba.

The decedent, FRED W. TUCKER, had been a national of the United States since birth. He died testate on April 12, 1964 and the beneficiaries of his estate were United States nationals at the requisite times. LEOMA N. BODLE, having been appointed Executrix of the Estate of FRED W. TUCKER, Deceased, is added in her representative capacity as claimant for his interest.

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 was presented for the following losses:

Four parcels of land in Camaguey	\$ 5,600.00
Buildings thereon	5,000.00
Orange groves	21,400.00
Machinery and Equipment	7,700.00
Bank Account	14,315.00
Furniture	<u>500.00</u>
	\$54,515.00

The Commission finds that LEOMA N. BODLE and her former spouse, FRED W. TUCKER, pursuant to the Community Property Law of Cuba, had owned a 1/2 interest in the real and personal property subject of this claim further discussed below. (See Claim of Robert L. Cheaney, et ux., Claim No. CU-0915.)

#### Farms

The record includes deeds to properties in Camaguey, a copy of an inventory of property which appears to have been prepared in connection with the 1961 income tax return for claimant and her deceased husband, and other documents. Based on this and the evidence of record, the Commission finds that claimant and her late husband jointly owned 4 farms in Camaguey, which included orange groves, 3 wooden frame buildings, and certain machinery and equipment.

Claimant states that they lost all of their property in early 1962 and that her late husband left Cuba on January 3, 1962.

The Agrarian Reform Law of May 17, 1959, published in the Cuban Official Gazette on June 3, 1959, established the National Agrarian Reform Institute and provided for the expropriation of rural properties and distribution among peasants and agricultural workers. The Fifth Transitory Provision provided that until regulations for the Law were promulgated, it should be applied through resolutions of the National Agrarian Reform Institute.

CU-0712

The regulations for carrying out the expropriation of such rural property were contained in Law 588, published in the Official Gazette (No. 191) on October 7, 1959. The Commission finds that the 4 farms including the machinery and equipment thereon were taken by the Government of Cuba, pursuant to the provisions of the Agrarian Reform Law, on January 4, 1962. (See Claim of Council Bluffs Savings Bank, Claim No. CU-1290.)

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.

On the basis of the entire record including the aforementioned deeds and copy of inventory prepared in 1961, the Commission finds that the asserted values of the 4 farms including the improvements and personalty thereon are fair and reasonable, and concludes that claimant and her late husband each suffered a loss in the amount of \$19,850 as a result of the taking of their properties by the Government of Cuba on January 4, 1962.

#### Bank Account

Claimant asserts the loss of a bank account in the amount of \$14,315.00. The evidence of record includes a copy of a receipt given to claimant's late husband on August 7, 1961 by the National Bank of Cuba acknowledging receipt of \$14,315.00 for conversion. Neither claimant nor her spouse recovered this money. The Commission finds that claimant and her late husband each owned a one-half interest in these funds.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on

August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions.

From the foregoing, the Commission finds that the above-described account, totalling \$14,315.00 was taken by the Government of Cuba on August 9, 1961 pursuant to the provisions of Law 964 (see Claim of Dorothy G. O'Kieffe, Claim No. CU-1242), and that claimant and her late husband suffered a loss in this amount as a result of the Cuban Government's action.

Claimant has been unable to substantiate the claim for house furnishings and has withdrawn this item of claim.

Recapitulation

The losses are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>	
		<u>Individually</u>	<u>As Executrix</u>
Bank Account	August 9, 1961	\$ 7,157.50	\$ 7,157.50
Farms	January 4, 1962	<u>19,850.00</u>	<u>19,850.00</u>
		\$27,007.50	\$27,007.50

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 claim, it is so ordered as follows:

	<u>FROM</u>	<u>ON</u>
LEOMA N. BODLE	August 9, 1961	\$ 7,157.50
	January 4, 1962	<u>19,850.00</u>
		\$27,007.50
LEOMA N. BODLE As Executrix	August 9, 1961	\$ 7,157.50
	January 4, 1962	<u>19,850.00</u>
		\$27,007.00

CU-0712

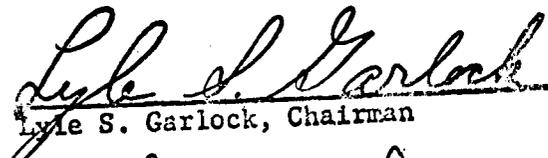
CERTIFICATIONS OF LOSS

The Commission certifies that LEOMA N. BODLE 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-Seven Thousand Seven Dollars and Fifty Cents (\$27,007.50) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that LEOMA N. BODLE as Executrix of the Estate of FRED W. TUCKER, Deceased, 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-Seven Thousand Seven Dollars and Fifty Cents. (\$27,007.50) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

JUN 9 1971

  
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. 1.5(e) and (g), as amended (1970).)