

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

IN THE MATTER OF THE CLAIM OF

WILBUR C. ANDREWS;
LYDIA D. ANDREWS, Mother
and Natural Guardian of
LOUIS ANDREWS, HARRY ANDREWS
and FRANK ANDREWS, Minors

Claim No. CU-0824

Decision No. CU -4804

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

By Proposed Decision issued April 29, 1970, the Commission certified losses to these claimants based on the loss of various real and personal property; and denied so much of the claim as was based on two lots in Tarara. Since then, satisfactory evidence has been submitted on this item and the Proposed Decision is hereby amended.

The Commission now finds that claimant owned a one-half interest in two adjoining lots, consisting of 1,900 square meters at Camino 19, Tarara, claimant's wife, who did not become a United States national until 1967, owning the other half.

Further, the Commission finds that this property was also taken on October 31, 1960.

The Commission has considered an affidavit by the President of Tarara Land Company, which sold the lots, and evidence as to the value of adjacent property and finds that these Lots 10 and 11, at Camino 19, had a total value of \$25,000.00 and that claimant's interest therein was \$12,500.00.

Recapitulation

Claimant's losses, and his sons', are recapitulated as follows:

WILBUR C. ANDREWS

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>	<u>Claimant's Interest</u>
Improved realty at Camino 5, Tarara	Oct. 31, 1960	\$26,255.00	\$13,127.50
Improved realty at 2931/2933 Calle 74, Buenavista, Marianao	Oct. 31, 1960	17,500.00	8,750.00

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>	<u>Claimant's Interest</u>
Two lots at Camino 19	Oct. 31, 1960	\$25,000.00	\$12,500.00
Checking account, First National Bank of Boston (claimant)	Oct. 31, 1960	650.00	325.00
Checking account, First National Bank of Boston (Lydia D. Andrews)	Oct. 31, 1960	950.01	475.00
Automobile	Oct. 31, 1960	1,630.00	815.00
Boat and motor	Oct. 31, 1960	1,200.00	600.00
Other personal property	Oct. 31, 1960	18,526.00	9,263.00
Havana Biltmore Yacht and Country Club Series B Membership	Mar. 19, 1960	450.00	<u>225.00</u>
			\$46,080.50

LOUIS ANDREWS, HARRY ANDREWS and FRANK ANDREWS

Savings accounts, Banco Godoy-Sayan	Oct. 31, 1960	\$320.00	\$320.00
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Accordingly, the Commission concludes that claimant suffered a total loss of \$46,080.50 and his sons suffered the previously described loss in the aggregate sum of \$320.00, all within the meaning of Title V of the Act as the result of the taking of their property by the Government of Cuba.

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.

Accordingly the Certifications of Loss as restated below will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATIONS OF LOSS


The Commission certifies that WILBUR C. ANDREWS 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

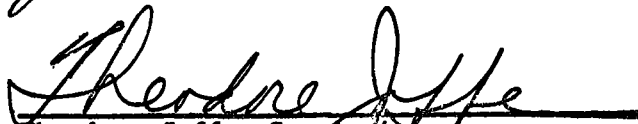
Forty-six Thousand Eighty Dollars and Fifty Cents (\$46,080.50) with interest at 6% per annum on \$45,855.50 from October 31, 1960, and on \$225.00 from March 19, 1960, to the date of settlement; and

The Commission certifies that LYDIA D. ANDREWS, Mother and Natural Guardian of LOUIS ANDREWS, HARRY ANDREWS and FRANK ANDREWS, Minors, 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 Hundred Twenty Dollars (\$320.00) with interest at 6% per annum from October 31, 1960 to the date of settlement.

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

SEP 16 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 Amended 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).)

FOREIGN CLAIMS SETTLEMENT COMMISSION
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WILBUR C. ANDREWS;
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LOUIS ANDREWS, HARRY ANDREWS
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Claim No. CU -0824

Decision No. CU 4804

**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 WILBUR C. ANDREWS for \$109,246.01 based on the asserted ownership and loss of land and personal property in Cuba. Claimant has been a national of the United States since birth, as have been his sons.

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 has been presented as follows, in summary:

1) Improved real property at Camino 5, Tarara	\$ 39,000.00
2) Two adjoining lots at Camino 19, Tarara	25,000.00
3) Two-story building at 2931 and 2933 Calle 74, Buenavista, Marianao, Havana	20,000.00
4) Bank accounts:	
Wilbur C. Andrews	650.00
Lydia D. Andrews	950.01
Louis Andrews, Harry Andrews and Frank Andrews, Minor sons	320.00
5) Endowment Insurance:	
Lydia D. Andrews	550.00
6) Boat and outboard motor	1,200.00
7) Chevrolet Belair Automobile	2,600.00
8) Havana Biltmore Yacht and Country Club Membership, Series "B"	450.00
9) Household furnishings, silver, crystal, china, art objects, clothing, etc.	<u>18,526.00</u>
	\$109,246.01

According to the record, claimant was an executive of the F. W. Woolworth firm, in Cuba, from 1926 to October, 1960. When the Woolworth properties were seized he was obliged to leave Cuba. He arrived in the United States on about November 2, 1960. On the basis of the record, including affidavits of claimant and individuals familiar with his affairs, as well as reports from abroad, the Commission finds that claimant owned certain real and personal property interests which were taken by the Government of Cuba on October 31, 1960, except as otherwise noted below. Pursuant to the community property laws of Cuba, the Commission holds that claimant's interest was one-half of said properties. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.) Lydia D. Andrews did not become a national of the United States until 1967, subsequent to the date of loss, and her interest would not be certifiable under the Act.

The Commission further finds that at the time of loss certain bank accounts belonged to the minor children of the claimant and Lydia D. Andrews.

The items of claim, and the values found for those taken by the Government of Cuba, are described below.

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.

Real Property

The record, including a report from abroad, discloses that claimant had a one-half interest in two plots of land totalling 990 square meters, at Camino 5, Tarara. One plot was used as a garden and on one had been constructed a two-story brick and cement structure, having 5 bedrooms, 4 baths, living room, dining room, kitchen, garage, 2 porches on the ground floor, and one porch on the second floor. On the basis of this record, and evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that on October 31, 1960 the land had a value of \$11,255.00 and the improvements had a value of \$15,000.00, a total of \$26,255.00, in which claimant's interest was \$13,127.50.

The record also discloses that claimant had a one-half interest in improved real property at 2931 and 2933 Calle 74, Buenavista, Marianao, Havana. The improvements consisted of a two-story brick and cement structure consisting of four apartments. Each apartment had a porch, living room, one bedroom, kitchen and bath. On the basis of the record, and other evidence available to the Commission, the Commission finds that on October 31, 1960 this property had a total value of \$17,500.00, and claimant's interest therein was \$8,750.00.

Claim was also made for two adjoining lots, consisting of 1,900 square meters, at Camino 19, Tarara, which claimant states was purchased from Tarara Land Company. Although the Commission twice attempted to obtain evidence in

support of this item, it has not been found. Moreover, it may be that title did not pass to claimant as it is noted that in his request for assistance in obtaining evidence, he stated that the property title was left with Tarara Land Co. The Commission finds that claimant has not established his ownership of an interest in this item of property. Thus the Commission is constrained to deny this item of claim and it is hereby denied.

Bank Accounts

The Commission finds that on October 31, 1960, claimant had a checking account in the Galiano Branch of the First National Bank of Boston, in Havana, with a balance of \$650.00; and that Lydia D. Andrews had a checking account in the Main Office of the same Bank, at Lamparilla, Havana, with a balance of \$950.01; and further that claimant's interest in these two accounts was \$800.00.

The Commission also finds that Savings Accounts were maintained on October 31, 1960 in Banco Godoy-Sayan, on behalf of claimant's sons LOUIS ANDREWS, HARRY ANDREWS and FRANK ANDREWS, in a total amount of \$320.00. As they are stated to be minors, their mother, LYDIA D. ANDREWS, is added as claimant on their behalf. (See Claim of Gladys Goldman, et al., Claim No. CU-1033.)

Automobile

Claim has been asserted for a Chevrolet Belair Automobile, 4-door 1958 hardtop sedan, with air conditioning and radio, which claimant states was purchased in August 1958 for \$3,200.00 and which he asserts had a value of \$2,600.00 on the date of loss here found as October 31, 1960. The Commission finds that claimant did have an interest in such an automobile and has considered claimant's assertion of value, as well as other evidence, including the National Automobile Dealers Association Guide for 1960. The Commission finds that the automobile had a value of \$1,630.00 on the date of loss, and claimant's interest therein was \$815.00.

Boat and Outboard Motor

The Commission finds on the basis of the record that claimant purchased in 1957 a 15-foot fiberglass and wood motor boat and a 35 h.p. Johnson outboard motor, and that on October 31, 1960 these had a combined value of \$1,200.00 in which claimant's interest was \$600.00.

Havana Biltmore Yacht and Country Club
Membership

The record discloses that in 1935 claimant acquired membership in Havana Biltmore Yacht and Country Club, evidenced by a Series "B" bond, at a cost of \$450.00. In our decision entitled Claim of Arman E. Becker, Jr. (Claim No. CU-1094), we found that the Club was intervened by the Government of Cuba on March 19, 1960, and that it was a corporation organized under the laws of Cuba, and did not qualify as a corporate "national of the United States", as defined under Section 502(1)(B) of the Act. The Commission finds that claimant suffered a loss of \$225.00 in connection with this item of claim as a result of the intervention on March 19, 1960.

Insurance

Claim has also been asserted for an item of endowment insurance, for Lydia D. Andrews, issued by Seguro Godoy-Sayan, in Havana, Cuba, and having an asserted cash value of \$550.00. The Commission has considered this matter and concludes that the record is insufficient to enable the Commission to determine that the item is certifiable in any part under the Act. Accordingly, this item of claim is denied.

Other Personal Property

Claim has also been asserted for personal property including household furnishings in the Tarara residence, and in a rented residence in Vedado, as well as art objects, silver, crystal, china, and clothing. Claimant has submitted a detailed listing of this property, giving the date of acquisition, the cost and the asserted fair market value as of October, 1960. The Commission has considered this listing and evidence as to the value of similar properties, and concludes that on October 31, 1960, this property had a value of \$18,526.00, and claimant's interest therein was \$9,263.00.

Claimant has asserted that in 1964 the Internal Revenue Service allowed a loss of \$57,798.14 which he states was based on a modified historical cost basis.

Claimant's losses, and his sons', may be summarized as follows:

WILBUR C. ANDREWS

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>	<u>Claimant's Interest</u>
Improved realty at Camino 5, Tarara	Oct. 31, 1960	\$26,255.00	\$13,127.50
Improved realty at 2931/2933 Calle 74, Buenavista, Marianao	Oct. 31, 1960	17,500.00	8,750.00
Checking account, First National Bank of Boston (claimant)	Oct. 31, 1960	650.00	325.00
Checking account, First National Bank of Boston (Lydia D. Andrews)	Oct. 31, 1960	950.01	475.00
Automobile	Oct. 31, 1960	1,630.00	815.00
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Havana Biltmore Yacht and Country Club Series B Membership	Mar. 19, 1960	450.00	<u>225.00</u>
			\$33,580.50

LOUIS ANDREWS, HARRY ANDREWS and FRANK ANDREWS

Savings accounts, Banco Godoy-Sayan	Oct. 31, 1960	\$320.00	\$320.00
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Accordingly, the Commission concludes that claimant suffered a loss of \$33,580.50 and his sons suffered a loss in the aggregate sum of \$320.00, all within the meaning of Title V of the Act as the result of the taking of their property by the Government of Cuba.

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.


CERTIFICATIONS OF LOSS

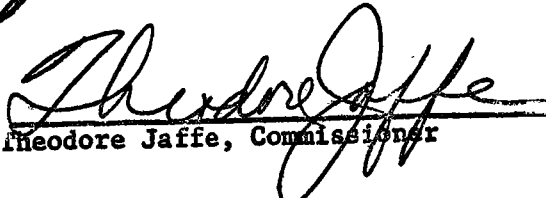
The Commission certifies that WILBUR C. ANDREWS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-three Thousand Five Hundred Eighty Dollars and Fifty Cents (\$33,580.50) with interest at 6% per annum on \$33,355.50 from October 31, 1960, and on \$225.00 from March 19, 1960, to the date of settlement; and


The Commission certifies that LYDIA D. ANDREWS, Mother and Natural Guardian of LOUIS ANDREWS, HARRY ANDREWS and FRANK ANDREWS, Minors, 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 Hundred Twenty Dollars (\$320.00) with interest at 6% per annum from October 31, 1960 to the date of settlement.

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

APR 29 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

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