

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

IN THE MATTER OF THE CLAIM OF

KATHARINE CROSBY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0902

Decision No. CU - 4915

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 KATHARINE CROSBY for \$176,548.09 based upon the asserted ownership and loss of an interest in a Cuban enterprise, real property and personal property in Havana, Cuba. Claimant has been a national of the United States at all times pertinent hereto.

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 asserts her loss as follows:

1. Stock interest of 83.34% of the Cuban land development firm of Fincas en San Francisco, S.C.	\$141,122.09
2. Apartment #162, First Street #252, Vedado Havana	20,450.00
3. Furniture and other personal property	5,000.00
4. Barandilla Development, two-thirds interest	<u>9,976.00</u>
Total	\$176,548.09

The record includes copies of monthly statements of collections made for lots sold by Fincas en San Francisco, S.C.; an affidavit by claimant's lawyer in Cuba dated September 1, 1964 concerning claimant's Cuban properties; and a certificate concerning claimant's status as domiciled at 252 First Street Vedado, Havana, Cuba.

On the basis of the evidence of record, the Commission finds that claimant was the owner of 83.34% of the outstanding shares of Fincas en San Francisco, S.C.; an apartment at 252 First Street, Vedado, Havana, with the personal property therein; and a 2/3 interest in the land known as the Barandilla Development.

On December 6, 1961, the Cuban Government published its Law 989 which provided for confiscation of all assets, personal property and real estate,

rights, shares, stocks, bonds and securities of persons who had left the country. The Commission therefore finds that claimant lost all of her ownership interests in the claimed property on December 6, 1961.

In determining the value of the properties, the Commission has considered the affidavit of Enrique Arango, claimant's Cuban attorney, who based his knowledge on information available in Cuba and an examination of claimant's apartment. The Commission finds that the values asserted for the claimed properties totalling \$176,548.09 are fair and reasonable and represent the values of those properties on December 6, 1961; and concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act as a result of the taking of claimant's property by the Government of Cuba on December 6, 1961.

Claimant had asserted additional loss for real property and improvements to her apartment but, not having supporting evidence of the ownership and value of such items, withdrew the additional claim.

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.

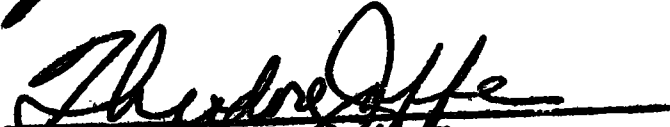
CERTIFICATION OF LOSS

The Commission certifies that KATHARINE CROSBY 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 Hundred Seventy-Six Thousand Five Hundred Forty-Eight Dollars and Nine Cents (\$176,548.09) with interest 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

MAY 27 1970


Lytle 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).)