

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

IN THE MATTER OF THE CLAIM OF

ERIC F. ROSS
LORE ROSS

Claim No. **CU -1122**

Decision No. **CU**

820

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 ERIC F. ROSS and LORE ROSS, for \$5,040.75, and is based upon the asserted ownership and loss of a bank account and real property located in Cuba. Claimants have been nationals of the United States since their naturalization on February 19, 1943 and February 19, 1945, respectively.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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 assert the ownership and loss of real property in Cuba valued at \$4,543.75. In support of the ownership and value of the real property, claimants have submitted a document entitled "purchase contract No. 39", dated April 16, 1959, between David H. Flanagan and Gertrude C. Flanagan, described as the owners of Parcel 425, Reparto McKinley, Hacienda Santa Barbara, Isle of Pines Cuba, as the Sellers, and claimants herein, as Buyers. The document provides that if the Buyers first make payments and perform covenants, the Sellers agree to convey to the Buyers, by Warranty Deed of conveyance, the middle south of Parcel 425, of McKinley, in the Hacienda Santa Barbara, barrio Cuchilla, Alta, Municipality of the Isle of Pines, Cuba, consisting of 5.45 acres. The Buyers agreed to pay \$450.00 cash deposit and the balance of \$4,050.00 in accordance with the terms of the agreement.

The record also includes evidence of the payment of the \$450.00 deposit, as well as acknowledgement, by the seller, of receipt of the balance of \$4,050.00 on April 28, 1959. In addition, the record contains a letter dated November 16, 1959 acknowledging receipt of \$43.75 as the purchase price for 85 pine trees, which were improvements to the subject property.

On the basis of the entire record and the state of Cuban law at the time of the transaction, the Commission finds that claimants were the owners, in equal parts, of middle south of Parcel 425, Reparto McKinley, Hacienda Santa Barbara, Isle of Pines, a province of Cuba.

A second portion of this claim is based upon the loss of a bank account, No. 741, maintained by ERIC F. ROSS at Banco Gelats in Havana, Cuba. The evidence in support of this portion of the claim consists of a statement from the Banco Gelats dated September 5, 1961, confirming that ERIC F. ROSS had a balance of 497 pesos in account No. 741 on August 24, 1961.

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. This includes such bank accounts as had not been established or confiscated by other laws.

As the record shows, in 1959 claimants were resident in New Jersey. The Commission finds, in the absence of evidence to the contrary, that the subject real property and personal property, consisting of land, improvements, and the bank account, were by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based upon the entire record the Commission finds that the land, including improvements, had a total value of \$4,543.75. Accordingly, the Commission concludes that claimants each suffered the loss of their one-half interests in the total amount, within the meaning of the Act.

The Commission further finds that the bank account of claimant ERIC F. ROSS, totalling 497 pesos, was also taken by the Government of Cuba on December 6, 1961 (See the Claim of Floyd W. Auld, FCSC Claim No. CU-0020). Additionally, the Commission finds that on December 6, 1961, claimant's 497 pesos had a value of \$497.00, and concludes that claimant ERIC F. ROSS suffered a loss in that amount within the meaning of Title V of the Act.

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 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 losses occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ERIC F. ROSS suffered a loss, as a result of the 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 Two Thousand Seven Hundred Sixty-Eight Dollars and Eighty-Seven Cents (\$2,768.87), with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

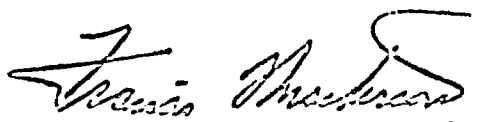
the Commission certifies that LORE ROSS suffered a loss, as a result of the actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Two Hundred Seventy-One Dollars and Eighty-Eight Cents (\$2,271.88), 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

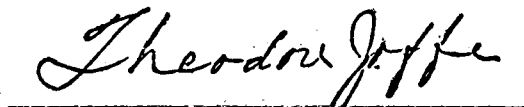
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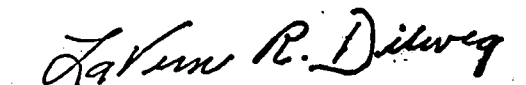
CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the Final
Decision on July 15, 1969


Francis M. Johnson
Clerk of the Commission


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


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).)

CU-1122