

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

IN THE MATTER OF THE CLAIM OF

CONCHITA RIBAS CHIBAS (McMILLAN)

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1185

Decision No. CU - 5876

Counsel for claimant:

Louis H. Cohen, 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 CONCHITA RIBAS CHIBAS (McMILLAN) for \$120,000.00 based upon the asserted ownership and loss of one-third interests in improved realty and a coffee plantation in Cuba. 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 describes her losses as follows:

- | | |
|---------------------------------------|------------------|
| 1) One-third of an apartment building | \$100,000.00 |
| 2) One-third of a coffee plantation | <u>20,000.00</u> |
| | \$120,000.00 |

Based upon the entire record, including a partition of inheritance, and acceptance thereof, affidavits of a co-owner and a daughter of the claimant and a copy of an income tax return, the Commission finds that claimant owned 44% interests in an apartment building in Vedado called "Edificio Chibas" and in a coffee plantation known as "Los Naranjos" in Guantanamo.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

Based on the foregoing and the evidence of record, the Commission finds that claimant's interest in improved real property in Vedado was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on

which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The Commission finds, in the absence of evidence to the contrary, that the coffee plantation was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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.

The record includes, in support of the asserted value of the apartment building, evidence that in 1925 it cost \$500,000.00 and depreciated thereafter, while the land value increased. Additionally there have been submitted rent rolls, as well as claimant's 1958 Income Tax Return, a photograph showing a building of seven floors, described as having 41 apartments, janitor's quarters and a 12-car garage, and affidavits of claimant's daughter and stepson.

Based on the entire record, the Commission finds that this apartment building, exclusive of the land, cost \$400,000.00 in 1925 and in 1960 had a depreciated value of \$200,000.00. The land of 1,150 square meters had a value of \$115,000.00, a total of \$315,000.00 in 1960; and claimant's interest therein had a value of \$138,600.00.

As to the coffee plantation, the record discloses this consisted of 15 caballerias and a house. Based on the record including

affidavits of claimant's daughter and stepson, the Commission finds that this property had a value of \$50,000.00 and claimant's interest had a value of \$22,000.00.

Accordingly, the Commission concludes that claimant suffered a loss in the aggregate amount of \$160,600.00 within the meaning of Title V of the Act, as the result of the taking of her property by the Government of Cuba on October 14, 1960 and December 6, 1961.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof. (See Claim of Eileen M. Smith, Claim No. CU-3038.)

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 as follows:

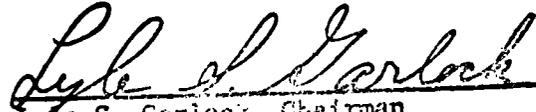
<u>FROM</u>	<u>ON</u>
December 6, 1961	\$ 22,000.00
October 14, 1960	<u>138,600.00</u>
	\$160,600.00

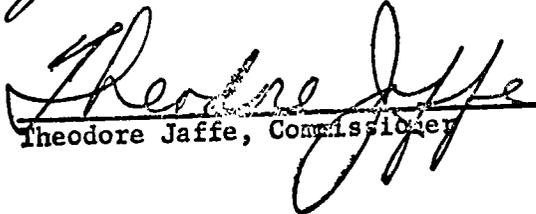
CERTIFICATION OF LOSS

The Commission certifies that CONCHITA RIBAS CHIBAS (McMILLAN) 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 Sixty Thousand Six Hundred Dollars (\$160,600.00) with interest at 6% per annum from the aforesaid dates of loss to the date of settlement.

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

22 OCT 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 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. 31.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)