

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

IN THE MATTER OF THE CLAIM OF

ROBERT F. DAWSON
FAY CURTIS DAWSON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1360

Decision No. CU 5108

Counsel for claimants:

Peck and Peck
By Jordan B. Peck, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$168,000.00, was presented by ROBERT F. DAWSON and is based upon the asserted loss of real and personal property, including a boat, car, and bank account in Cuba. Pursuant to the Cuban Community Property Law, FAY CURTIS DAWSON had an interest in the properties subject of this claim and is joined as a claimant. Both claimants have been nationals 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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimants described the losses as follows:

1) Penthouse on Ed. Maricel at Calle 36 and Ave. de la Playa, Varadero	\$100,000.00
2) House in Isle del Sur, Varadero	25,000.00
3) Personalty, including furniture, equipment, personal belongings, boat, car	40,000.00
4) Cash in Cuban Trust Co.	<u>3,000.00</u>
	\$168,000.00

They state that this claim arose in 1961.

Claimants have submitted a copy of a letter of April 30, 1960 from Realty and Insurance Agency in Varadero addressed to claimant ROBERT F. DAWSON in the United States reciting that they had appraised claimants' penthouse apartment and the house, listing it for sale, and giving reduced rents as of February 1, 1960.

On the basis of the entire record, the Commission finds that claimants owned the penthouse, house and certain personalty in Cuba.

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).

Based on the foregoing, the Commission finds that claimants' penthouse apartment and house were taken by the Government of Cuba on October 14, 1960, pursuant to the provisions of the Urban Reform Law. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission further finds that the personalty located in the apartment and in the house, was taken at the same time.

The Commission also finds that claimants owned a boat and outboard motor which were taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of its Law 989, published that date, which effectively confiscated goods of persons who left the country. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The record does not support claimants' contention that they left a bank account and automobile in Cuba. Accordingly so much of the claim as is based on a bank account and automobile is denied.

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.

Based on an appraisal of claimants' property as of April 25, 1960, the Commission finds that on the dates of loss the penthouse apartment had a value of \$60,000.00, the house had a value of \$35,000.00, the personalty at the apartment, including certain sports equipment, had a value of \$23,128.00, and the personalty at the house had a value of \$6,980.00. Further the Commission finds that the boat and outboard motor had a value of \$3,000.00 based on a similar appraisal.

Claimants' aggregate losses may be summarized as follows:

	<u>Date of Loss</u>	
1) Penthouse	October 14, 1960	\$ 60,000.00
2) House	October 14, 1960	35,000.00
3) Personalty	October 14, 1960	30,108.00
4) Boat and motor	December 6, 1961	<u>3,000.00</u>
	Total	\$128,108.00

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 follows:

	<u>From</u>	<u>On</u>	
ROBERT F. DAWSON	October 14, 1960		\$62,554.00
	December 6, 1961	<u>1,500.00</u>	\$64,054.00
FAY CURTIS DAWSON	October 14, 1960		\$62,554.00
	December 6, 1961	<u>1,500.00</u>	\$64,054.00

CERTIFICATION OF LOSS

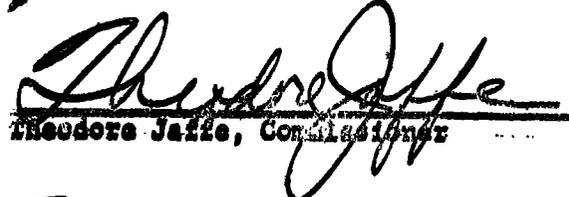
The Commission certifies that ROBERT F. DAWSON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Sixty-Four Thousand Fifty-Four Dollars (\$64,054.00) with interest at 6% per annum from the aforesaid dates to the date of settlement; and

The Commission certifies that FAY CURTIS DAWSON 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 Sixty-Four Thousand Fifty-Four Dollars (\$64,054.00) with interest at 6% per annum from the aforesaid dates to the date of settlement.

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

JUN 30 1970


Lyle 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. 331.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)