

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

IN THE MATTER OF THE CLAIM OF

MANUELA H. SKINNER
JOSEPH A. DIAZ PEREZ
MICHAEL A. DIAZ
RALPH J. DIAZ

Claim No. CU-1686
Claim No. CU-4448

Decision No. CU-4165

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on November 7, 1969;
Oral hearing not requested.

Hearing on the record held on January 8, 1970.

FINAL DECISION

The Commission issued its Proposed Decision in these claims on November 7, 1969, whereby a certification of loss was made in the total amount of \$73,000.00, plus interest at 6% per annum, in one-sixth parts to each of the aforesaid four claimants, nieces and nephews of the late Marie Therese Perez, who died intestate on July 1, 1968. The certification of loss to the aforesaid claimants was based on the loss of decedent's interest in real and personal property at 260 Calle 6 y 6 and 13, and 417 Neptuno Street, Havana, the claim for which was inherited by claimants herein and two Cuban nationals.

Another portion of the claim, which was based upon the loss of decedent's interest in real property located at 360 Amistad, Havana, was denied for the reason that claimants failed to submit supporting evidence pertaining to the ownership, loss and value of the property in question. Although the Proposed Decision, on page 2 referred to this property, along with others, as owned by the decedent, the thrust of the paragraph was to describing the properties assertedly owned by the decedent. The second paragraph on page 4 of the decision clarified that no evidence had been received with respect to this property at No. 360 on a street correctly spelled Amistad.

Thereafter, claimant MICHAEL A. DIAZ objected to the Proposed Decision on behalf of himself and JOSEPH A. DIAZ PEREZ, contending they should be the sole recipients of the certification since they were the main support of the aunt; and objecting to the lack of certification on the Amistad property. They failed, however, to submit information or evidence in support of their objections, including those relating to the ownership, loss and value of the property on Amistad Street.

Full consideration having been given to the objections of the claimants, and the entire record, including claimants' objections having been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision as clarified herein be and the same is hereby entered as the Final Decision of the Commission in these claims.

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

22 JAN 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

CU-1686

CU-4448

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

IN THE MATTER OF THE CLAIM OF

MANUELA H. SKINNER
JOSEPH A. DIAZ PEREZ
MICHAEL A. DIAZ
RALPH J. DIAZ

Claim No. CU -1686
Claim No. CU-4448

Decision No. CU 4165

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amount of \$125,000.00 were filed on behalf of Therese Perez a/k/a Maria Teresa Perez Poussin based upon the asserted loss of improved realty, and personalty, in Havana, Cuba. Marie Therese Perez was a national of the United States since naturalization in 1926.

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.

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.

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).)

Maria Therese Perez returned to continental United States on December 6, 1967. She died intestate on July 1, 1968 and was survived by six nieces and nephews who have inherited her claim against the Government of Cuba. Four of these heirs are in the United States and are substituted as claimants herein. The remaining two heirs need not be identified in this decision.

The properties owned by the decedent have been described as follows:

- 1) A 12-room home at 260 Calle 6 y 13, Vedado, Havana
- 2) House at 360 Armistad Street, Havana
- 3) Lower floor of a house at 417 Neptuno Street, Havana
- 4) Furniture and furnishings at 260 Calle 6 y 13

CU-1686
CU-4448

On the basis of the entire record, including a copy of a document of sale pertaining to 417 Neptuno Street and reports from abroad, the Commission finds that the decedent owned the real property at 260 Calle 6 y 13, the personalty therein, and one-half the realty at 417 Neptuno Street.

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

The Commission finds, in the absence of evidence to the contrary, that the subject real and personal property was taken by the Government of Cuba on December 6, 1966 pursuant to the provisions of Law 989 even though the decedent remained in possession for a while thereafter. (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.

On the basis of the entire record, including reports from abroad, and description furnished by two of decedent's nephews the Commission finds that the properties had the following values:

1) Improved realty at 260 Calle 6 y 13	\$60,000.00
2) 1/2 the improved realty at 417 Neptuno Street	10,000.00
3) Personalty at 260 Calle 6 y 13	<u>3,000.00</u>
	\$73,000.00

CU-1686
CU-4448

Accordingly, the Commission concludes that each of the six heirs suffered a loss in the amount of \$12,166.66 within the meaning of Title V of the Act, as the result of the taking of the said property by the Government of Cuba on December 6, 1966.

With respect to the property at 360 Armistad Street, Havana, Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this item of claim and it is hereby denied.

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) and in the instant, it is so ordered.

CERTIFICATIONS OF LOSS

The Commission certifies that MANUELA H. SKINNER succeeded to and 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 Twelve Thousand One Hundred Sixty-six Dollars and Sixty-six Cents (\$12,166.66) with interest at 6% per annum from December 6, 1966 to the date of settlement;

The Commission certifie that JOSEPH A. DIAZ PEREZ succeeded to and 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 Twelve Thousand One Hundred Sixty-six Dollars and Sixty-six Cents (\$12,166.66) with interest at 6% per annum from December 6, 1966 to the date of settlement;

CU-1686
CU-4448

The Commission certifies that MICHAEL A. DIAZ succeeded to and 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 Twelve Thousand One Hundred Sixty-six Dollars and Sixty-six Cents (\$12,166.66) with interest at 6% per annum from December 6, 1966 to the date of settlement;

The Commission certifies that RALPH J. DIAZ succeeded to and 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 Twelve Thousand One Hundred Sixty-six Dollars and Sixty-six Cents (\$12,166.66) with interest at 6% per annum from December 6, 1966 to the date of settlement;

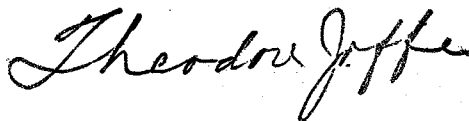
The Commission certified that a second niece of the decedent succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twelve Thousand One Hundred Sixty-six Dollars and Sixty-six Cents (\$12,166.66) with interest at 6% per annum from December 6, 1966 to the date of settlement; and

CU-1686
CU-4448

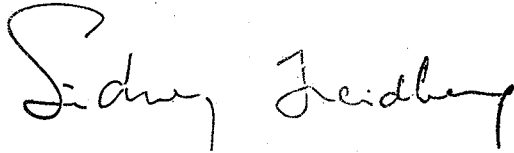
The Commission certifies that a third niece of the decedent succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twelve Thousand One Hundred Sixty-six Dollars and Sixty-six Cents (\$12,166.66) with interest at 6% per annum from December 6, 1966 to the date of settlement.

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

NOV 7 1969



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).)

CU-1686

CU-4448