

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

IN THE MATTER OF THE CLAIM OF

OCTAVIO HAMILL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2170

Decision No. CU
5916

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 OCTAVIO HAMILL for \$20,200.00 based upon the asserted ownership and loss of certain real and personal property 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.

Section 503 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.

Claimant describes his loss as follows:

Personal property including furniture	\$15,000.00
Land parcel in Matanzas	2,500.00
1959 Ford Sedan	<u>2,700.00</u>
	\$20,200.00

Based upon the entire record, including claimant's affidavit, affidavits of two individuals, and a detailed list of the personalty subject of this claim sworn to by claimant, the Commission finds that claimant, pursuant to the Community Property Law of Cuba, owned a one-half interest in the real and personal property in question; his wife, Blanca Hamill, owning the other one-half.

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 record establishes and the Commission finds that claimant left Cuba on September 23, 1960, and that the real property subject of this claim was taken on December 23, 1960 pursuant to the aforesaid law; and further that the personalty was taken on the same date. This taking was accomplished specifically by an officer of the Department of Urban Reform.

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 claimed values, a description of the land parcel as measuring 80 feet by 120 feet, located at a place called Balcon del Yumuri, in the city of Mantanzas, purchased on March 6, 1958 at a cost of \$2,500.00. The record also includes an itemized list of the personalty including the 1959 Ford Fairlane, and the dates of purchase, the purchase price, and the estimated value on the date of loss.

Based on the entire record, the Commission finds that the unimproved realty in Matanzas had a value of \$2,500.00 and that the personalty including the 1959 Ford sedan had a value of \$17,700 on December 23, 1960, the date of loss. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$10,100.00 for his one-half interest in the property, within the meaning of Title V of the Act, as a result of the taking of the property by the Government of Cuba on December 23, 1960.

Inasmuch as claimant's wife owned one half of the property, and she is not shown to be a United States national at the appropriate time, so much of the claim as is based on her interest is denied.


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.

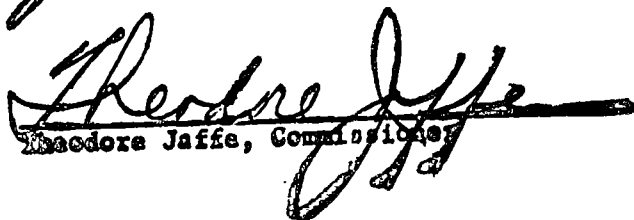
CERTIFICATION OF LOSS

The Commission certifies that OCTAVIO HAMILL 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 Ten Thousand One Hundred Dollars (\$10,100.00) with interest thereon at 6% per annum from December 23, 1960 to the date of settlement.

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

OCT 21 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. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)