

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

IN THE MATTER OF THE CLAIM OF

JOHN K. TEAFORD
JACQUELINE TEAFORD

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2319

Decision No. CU -6075

Counsel for claimants:

Hale Russell & Stentzel
By Thomas P. Finn, Jr., 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 JOHN K. TEAFORD for \$395,386.31 based upon the asserted ownership and loss of certain real and personal property in Cuba. Pursuant to the community property law of Cuba JACQUELINE TEAFORD had an interest in property acquired by her husband in Cuba subsequent to their marriage in 1956. Accordingly, JACQUELINE TEAFORD is joined as claimant in this matter. 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.

Claimant JOHN K. TEAFORD describes the losses as follows:

(1) Realty in Santa Cruz del Sur, Havana	\$105,000.00
(2) Household Furnishings, clothes, office equipment and tools	39,290.00
(3) Debts owed by nationalized enterprises	242,596.31
(4) Mortgage	8,500.00
	<u>\$395,386.31</u>

Realty

Record includes affidavits by claimant JOHN K. TEAFORD and by ARTURO Bengochea, and the original copy of a receipt from Arturo Bengochea dated September 12, 1958 acknowledging a loan from claimant JOHN K. TEAFORD of \$105,000.00 (the peso being on a par with the United States dollar). This receipt authorized Arturo Bengochea to satisfy the loan by transferring tracts of land to the claimant JOHN K. TEAFORD. Based on the evidence of record, the Commission finds that the realty subject of this claim was transferred by Arturo Bengochea to claimant, JOHN K. TEAFORD, in December, 1958 and that claimants, pursuant to the Community Property Law of Cuba, owned equal interests in this unimproved realty.

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. The record reflects that claimants left Cuba in May, 1959.

The Commission finds, in the absence of evidence to the contrary, that the subject real property 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-Dece. 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 claimed values, the aforementioned affidavits describing the unimproved realty as comprising 100,000 square meters in the development known as "Boca de Jaruco" in Santa Cruz del Sur and which reflect it was purchased in December, 1958 for \$105,000.00.

Based on the entire record, the Commission finds that on the date of loss the realty subject of this claim had a value of \$105,000.00, and concludes that claimants, pursuant to the Community Property Law of Cuba, each suffered a loss of \$52,500.00 within the meaning of Title V of the Act.

Personalty

Claimant JOHN K. TEAFORD has submitted a detailed list of claimants' household furnishings, appliances, clothes; office equipment; and tools used by claimant in his profession as designer and builder of food processing plants. The list includes the location, the purchase prices and approximate dates of purchase. The record also includes a copy of an invoice dated October 31, 1958 setting forth the tools subject of this claim. Based on the record including also affidavits of JOHN K. TEAFORD and of two individuals who knew claimants in Cuba and visited their home in Marianao, the Commission finds that claimants owned the listed personal property located in a rented house, the office equipment and construction tools.

The record includes an affidavit of an individual who accompanied claimant JOHN K. TEAFORD on a visit to Cuba in March 1960 and states that they were told by friends that the house had been entered by police in February, 1960 who ordered claimants' servants to leave, and who shortly thereafter removed everything from the house. The Commission finds that

claimants' household furnishings and clothing were taken by the Cuban Government on February 15, 1960, and in the absence of evidence to the contrary that the office equipment was taken on the same date.

With regard to the tools subject of this claim, claimant JOHN K. TEAFORD has submitted an affidavit wherein he states that in March, 1959, a truckload of soldiers arrived at the Fishing Terminal work site where his tools were located, ushered him and others out and took possession of all the property at the site including the construction tools. Based on this record the Commission finds that claimants' tools were taken by the Government of Cuba on March 15, 1959.

The record includes, in support of the claimed values, the aforementioned detailed list, affidavits and copy of invoice.

Based on the entire record, the Commission finds that at the time of loss, after appropriate depreciation, the household furnishings, appliances, clothing, and office equipment had an aggregate value of \$18,814.00, that the construction tools had a value of \$13,000.00, and concludes that claimants thus suffered a loss in the aggregate amount of \$31,814.00 within the meaning of Title V of the Act.

Debts Owed by Nationalized Enterprises

1. Debt due by Asociacion De Contratistas Independientes, S.A. (ACISA)

The record includes an original copy of an agreement dated October 29, 1957 between claimant JOHN K. TEAFORD and ACISA, an affidavit from the president of ACISA dated April, 1967, an affidavit of claimant JOHN K. TEAFORD, a copy of a memorandum dated February 4, 1959 from the supervisor of the Fishing Terminal and copies of telegrams from JOHN K. TEAFORD dated February 19, 1959 to the president of ACISA and to a bank in Cuba protesting nonpayment since July, 1958.

Based on the evidence of record, the Commission finds, that the project on which claimant JOHN K. TEAFORD had contracted with ACISA, for the installation of industrial machinery, was intervened by the Government of Cuba on March 15, 1959, that ACISA owed JOHN K. TEAFORD \$76,626.31 for work performed under the contract, and that this debt has not been paid.

In this regard the Commission has held that debts of a nationalized Cuban corporation owed to an American claimant constitute losses within the meaning of Title V of the Act. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

Accordingly, the Commission concludes that claimants suffered a loss in the amount of \$76,626.31 as of March 15, 1959 within the meaning of Title V of the Act.

2. Debts Owed by National Institute of Fishing

The record includes affidavits from the former president and former secretary of the National Institute of Fishing, an agency of the Cuban Government, in which it is stated that claimant JOHN K. TEAFORD had contracted with the Institute to prepare the design and plans for the construction of a fishing terminal in the port of Havana for a fee of \$114,670.00, and to design and construct in conjunction with the fishing terminal a number of ice plants and cold storage warehouses to be built in the interior ports of Cuba for \$30,000.00. It is further stated that JOHN K. TEAFORD fulfilled his part of these contracts but was not paid the \$114,670.00 and \$30,000.00 which were due him.

The record also includes a booklet containing the plans and specifications of the proposed refrigeration plants and a copy of a letter from JOHN K. TEAFORD to the president of the Institute dated March 10, 1958 outlining his proposal.

In addition, the record includes a copy of JOHN K. TEAFORD's letter to a bank in Vedado, dated February 18, 1959 regarding the nonpayment of expenses he incurred in connection with the protection of the machinery at the fishing terminal in Havana. The record also contains JOHN K. TEAFORD's original letter to his lawyer in Cuba dated May 25, 1959 relating to a power of attorney given him to collect the sum of \$6,300.00 due JOHN K. TEAFORD for this work, and an affidavit from this lawyer supporting this portion of the claim.

Based on the evidence of record, the Commission finds that the Institute owed JOHN K. TEAFORD an additional debt of \$6,300.00 on March 15, 1959 on

account of this work, and concludes that claimants suffered a loss in the aggregate amount of \$150,970.00 within the meaning of Title V of the Act when the intervention of March 15, 1959 occurred.

3. Debts owed by A. Garcia y Compania Limitada (Garcia), a partnership

Claim is also made for an additional debt owed JOHN K. TEAFORD by Garcia in the sum of \$15,000.00. It is asserted that this represented the last of four installments of \$15,000.00 due August 4, 1959 based on a loan of \$60,000.00 to Garcia by JOHN K. TEAFORD. This portion of the claim is also supported by the aforementioned affidavit of JOHN K. TEAFORD's lawyer in Cuba and by a copy of the agreement dated May 25, 1959 signed by Garcia.

Garcia was intervened by the Government of Cuba on September 15, 1960 by Resolution 20260.

The Commission finds that Garcia owed JOHN K. TEAFORD \$15,000.00 and that claimants suffered a loss in this amount within the scope of Title V of the Act on September 15, 1960 when Garcia was intervened by the Government of Cuba.

Mortgage

Claim is made for the loss of a mortgage in the sum of \$8,500.00. In support of this portion of the claim JOHN K. TEAFORD has submitted his cancelled check in this amount dated September 11, 1958 made out to the mortgagor, a promissory note dated September 11, 1958 in this amount from the mortgagor to JOHN K. TEAFORD, and an affidavit from the mortgagor stating that the mortgaged property in Marianao was taken by the Government of Cuba and that JOHN K. TEAFORD never collected any part of the \$8,500.00.

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). Moreover, Article 30 provided for the cancellation of mortgages.

Based on the foregoing, the Commission finds that claimants owned a mortgage of \$8,500.00 which was cancelled by the Government of Cuba on October 14, 1960 pursuant to its Urban Reform Law and that they thereby suffered a loss in the amount of \$8,500.00 on that date within the meaning of Title V of the Act. (See Claim of Marita Dearing de Lattre Estate, Claim No. CU-0116.)

Summary

Claimants' losses are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Unimproved realty	December 6, 1961	\$105,000.00
Household furnishings	February 15, 1960	18,814.00
Tools	March 15, 1959	13,000.00
Debts due from:		
ACISA	March 15, 1959	76,626.31
National Institute of Fishing	March 15, 1959	150,970.00
Garcia	September 15, 1960	15,000.00
Mortgage	October 14, 1960	<u>8,500.00</u>
	Total	\$387,910.31

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>
March 15, 1959	\$240,596.31
February 15, 1960	18,814.00
September 15, 1960	15,000.00
October 14, 1960	8,500.00
December 6, 1961	<u>105,000.00</u>
Total	\$387,910.31

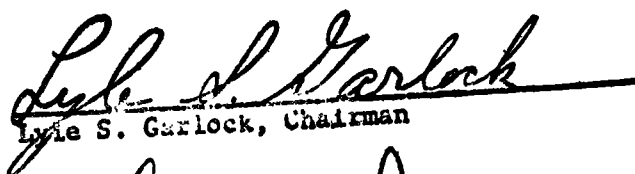
CERTIFICATIONS OF LOSS

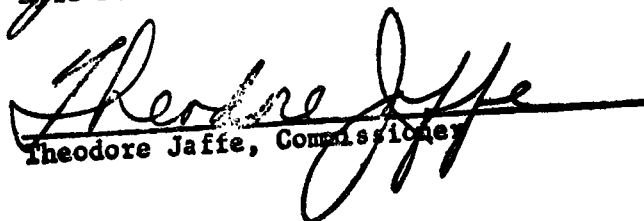
The Commission certifies that JOHN K. TEAFORD suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Ninety-three Thousand Nine Hundred Fifty-five Dollars and Sixteen Cents (\$193,955.16) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that JACQUELINE TEAFORD 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 Ninety-three Thousand Nine Hundred Fifty-five Dollars and Fifteen Cents (\$193,955.15) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

FEB 17 1971


Lydie 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 (1970).)