

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

IN THE MATTER OF THE CLAIM OF

JAMES LOWELL McMASTERS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2793

Decision No. CU 6185

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 amended amount of \$15,500.00, was presented by JAMES LOWELL McMASTERS based upon the asserted loss of certain 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.

Claimants assert the following losses:

Personal property	\$ 3,000.00
Cuban Telephone Company - shares of stock	7,500.00
Cuban Electric Company - bonds	<u>5,000.00</u>
Total	<u>\$15,500.00</u>

Personal Property

Based upon the evidence of record in this claim and in the claim of claimant's mother, Mrs. Helen Hunt McMasters, Claim No. CU-2692, the Commission finds that claimant owned certain items of personal property which were maintained at his mother's home in Marianao, Havana, Cuba.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to claimant, who had left Cuba prior to that date, and that his personal property was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Claimant states that his personal property consisted of books, clothing, films, projectors, phonograph records, and a hi-fidelity phonograph which he had accumulated over many years. The claim of his mother contains a list of her personal property which includes the property of her son. That list, which had been left by claimant's mother with the American Embassy, Havana, Cuba, but which did not show valuations. Subsequently claimant's mother placed a value for each item on the list and stated that she relied solely on her memory for this purpose. Neither claimant nor his mother could set forth either the dates of acquisition of the various items of personal property or the costs thereof.

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The Commission notes that all of claimant's personal property was subject to depreciation. The books and clothing were subject to depreciation at the rate of 20% per year, and the other items were subject to a rate of 10% per year.

Upon consideration of the entire record and in the absence of evidence to the contrary, the Commission finds that the items of personal property should be depreciated by 50%. Accordingly, the Commission finds that the aggregate value of claimant's personal properties on December 6, 1961, the date of loss, was \$1,500.00.

Cuban Telephone Company

Based upon stock certificate No. C04620, the Commission finds that claimant owned 22 shares of common stock in the Cuban Telephone Company.

The Commission has held that a claim based upon stock of the Cuban Telephone Company is within the purview of Title V of the Act because, although the Cuban Telephone Company was a national of the United States at all pertinent times, it is now defunct. (See Claim of International Telephone and Telegraph Company, Claim No. CU-2615.) In that claim, the Commission found that the assets of the Cuban Telephone Company had been taken by the Government of Cuba on August 6, 1960, and further that the value of each share of common stock was \$184.0057 on the date of loss. The Commission therefore finds that claimant's 22 shares had a value of \$4,048.13.

Cuban Electric Company

The evidence establishes and the Commission finds that claimant owned 5 mortgage bonds of the Cuban Electric Company in the face amount of \$1,000.00 each. The record shows that interest on the bonds had been paid for the entire period ending December 31, 1960.

The Commission has found that the assets of the Cuban Electric Company, which constituted the security for the bonded indebtedness, were taken by the Government of Cuba on August 6, 1960. (See Claim of Cuban Electric

Company, Claim No. CU-2578.) Moreover, claims for debts that were charges on properties taken by the Government of Cuba are within the purview of Title V of the Act.

Accordingly, the Commission finds that claimant sustained a loss on August 6, 1960 in the amount of \$5,000.00 on account of his Cuban Electric Company bonds.

Claimant's losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Personal property	December 6, 1961	\$ 1,500.00
Cuban Telephone Company (shares of stock)	August 6, 1960	4,048.13
Cuban Electric Company (bonds)	August 6, 1960	<u>5,000.00</u>
	Total	<u>\$10,548.13</u>

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 as follows:

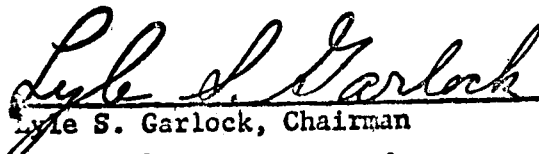
<u>FROM</u>	<u>ON</u>
August 6, 1960	\$ 9,048.13
December 6, 1961	<u>1,500.00</u>
Total	<u>\$10,548.13</u>

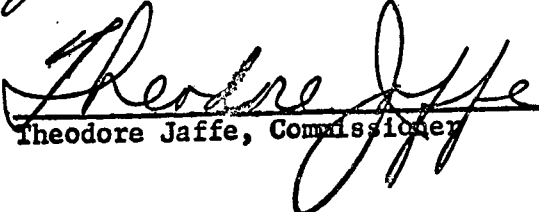
CERTIFICATION OF LOSS

The Commission certifies that JAMES LOWELL McMASTERS 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 Five Hundred Forty-Eight Dollars and Thirteen Cents (\$10,548.13) with interest thereon 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

MAY 12 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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 (1970).)

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