

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

IN THE MATTER OF THE CLAIM OF

MILES CHESTER JEWETT
and
JOSEFINA ZAIDA JEWETT

Claim No. CU -2804

Decision No. CU - 5572

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amount of \$396,524.00, was presented by MILES CHESTER JEWETT and JOSEFINA ZAIDA JEWETT, based on the loss of certain real and personal property in Cuba. 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 following losses are asserted:

Plantation at Holguin, Cuba, consisting of 58.730 caballerias of land and improvements	\$299,414.00
Equipment, livestock and other items of personal property on plantation	59,100.00
Residence in Holguin	19,663.00
Personal property at residence	<u>18,347.00</u>
Total	<u>\$396,524.00</u>

The record shows that for a number of years prior to World War II claimants and other members of their family owned certain land in Holguin, Cuba. The claim of said relatives, Mrs. Jennie M. Fuller, et al., Claim No. CU-2803, will be decided on its own merits. The family operated a saw mill, raised cattle and crops and ultimately grew sugar cane.

On July 21, 1940, the family assets in Holguin, Cuba were transferred to a Cuban corporation, Cia. Agricola de Lewiston, S.A., expressly created for the purpose of carrying on the family business in Cuba. Originally, the total outstanding capital stock of the Cuban corporation was 355 shares but this was subsequently reduced to 235, distributed as follows: Mr. and Mrs. Miles Chester Jewett, 108 shares; and Mr. and Mrs. William Otis Fuller, 127 shares.

The Cuban corporation conducted its business until August 1959, when the Cuban National Institute of Agrarian Reform (I.N.R.A.) ordered the dissolution of the corporation. As of September 3, 1959, the Cuban corporation was formally dissolved, and its assets were distributed to its stockholders as follows: Mr. and Mrs. Miles Chester Jewett, 58.730 caballerias of land (1 caballeria equalling 33.162 acres); and Mr. and Mrs. William Otis Fuller, 68.994 caballerias of land. These land areas included improvements as indicated further below.

In February 1960 the I.N.R.A. authorities ordered claimants to exercise no further acts of ownership over their plantation. Claimants continued to reside at their home in Holguin, Cuba until January 5, 1961 when they left Cuba.

On the basis of the entire record, the Commission finds that the entire plantation, including all of its improvements, as well as the livestock, personal belongings and other items of personal property situated on the plantation, were intervened or taken by the Government of Cuba in February 1960. In the absence of evidence to the contrary, the Commission finds that the taking occurred on February 15, 1960.

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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Plantation

As noted above, claimants each owned a 1/2 interest in 58.730 caballerias of land and improvements in Holguin, Cuba, as well as in the farm equipment and related personal property on the plantation.

Document No. 70, pursuant to which the Cuban corporation was dissolved, sets forth the assessed valuations for the several parcels of land and improvements that were distributed to the claimants as follows:

<u>Parcel No.</u>	<u>Area of Land (caballerias)</u>	<u>Assessed Value</u>
I	23.718	\$ 53,375.50
J	18.981	42,707.25
K	<u>16.031</u>	<u>36,069.75</u>
Totals	<u>58.730</u>	<u>\$132,152.50</u>

The Commission notes that assessed valuations invariably are much lower than fair market values. The evidence in this case includes an inventory filed with I.N.R.A. authorities on September 3, 1959, when the Cuban corporation was dissolved. That inventory sets forth the fair market values of the properties in question. Those valuations are relied upon by claimants.

It further appears that said valuations are supported by the record in the related Claim No. CU-2803, which contains affidavits from experts appraising the properties that were formerly owned by the Cuban corporation and that were distributed to the claimants herein and the related claimants in Claim No. CU-2803.

Based upon the entire record, the Commission finds that the valuations most appropriate to the properties and equitable to the claimants are those set forth in the inventory that was presented to the I.N.R.A. authorities.

Accordingly, the Commission finds that claimants' valuations are fair and reasonable. The Commission therefore finds that the values of the real properties on February 15, 1960, the date of loss, were as follows:

58.730 caballerias of land	\$275,930.00
Improvements on the land	<u>23,484.00</u>
Total	<u>\$299,414.00</u>

Therefore, each claimant sustained a loss in the amount of \$149,707.00.

Equipment, Livestock and Other Personal Property

On the basis of the entire record, including the inventory filed with I.N.R.A. authorities and detailed lists of the equipment, livestock and

other items of personal property, the Commission finds that claimants' valuations are fair and reasonable. The Commission therefore finds that the aggregate value of the equipment, livestock and other items of personal property on February 15, 1960, the date of loss, was \$59,100.00.

Therefore, each claimant sustained a loss in the amount of \$29,550.00.

Residence

Based upon a copy of an original deed, No. 48, dated May 24, 1950, the Commission finds that claimants each owned a 1/2 interest in a house and lot at Los Alamos Street, Holguin, Cuba. Claimants state that this, their residence, was taken by the Government of Cuba on January 5, 1961, when they left 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 claimants, who had left Cuba prior to that date, and that their interests in their residence were 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].)

Claimants assert that their residence and lot had a value of \$19,663.00, based upon their investment. The deed of May 24, 1950 shows that claimants paid \$11,015.00 for the real property. It further appears that they improved the property by the additions of another bedroom, a utility room, a tiled patio, a wrought iron fence, a well, screens, pipes, etc., at an aggregate cost of \$8,648.00.

On the basis of the entire record, the Commission finds that claimants' valuations are fair and reasonable. Accordingly, the Commission finds that the residence and lot had an aggregate value of \$19,663.00 on December 6, 1961, the date of loss. Therefore, each claimant sustained a loss in the amount of \$9,831.50.

Personal Property at Residence

Based upon the entire record, the Commission finds that claimants each owned a 1/2 interest in certain items of personal property situated at the residence. The Commission further finds that these items of personal property were taken by the Government of Cuba on December 6, 1961, when the residence was taken.

The record includes a detailed list of the various items of personal property, reduced in value from their original costs on account of depreciation.

Upon consideration of the entire record, the Commission finds that claimants' valuations are fair and reasonable. Accordingly, the Commission finds that the items of personal property had an aggregate value of \$18,347.00 on December 6, 1961, the date of loss. Therefore, each claimant sustained a loss in the amount of \$9,173.50.

Each claimant's losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Plantation	February 15, 1960	\$149,707.00
Personal property on plantation	February 15, 1960	29,550.00
Residence	December 6, 1961	9,831.50
Personal property at residence	December 6, 1961	<u>9,173.50</u>
	Total	<u>\$198,262.00</u>

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 with respect to each claimant:

<u>FROM</u>	<u>ON</u>
February 15, 1960	\$179,257.00
December 6, 1961	<u>19,005.00</u>
Total	<u>\$198,262.00</u>


CERTIFICATIONS OF LOSS

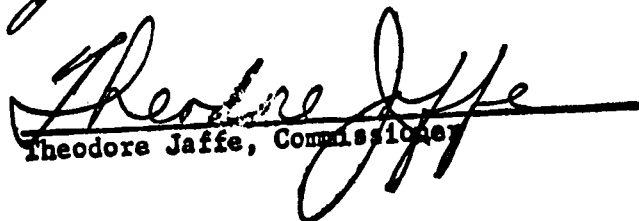
The Commission certifies that MILES CHESTER JEWETT suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Ninety-eight Thousand Two Hundred Sixty-two Dollars (\$198,262.00) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that JOSEFINA ZAIDA JEWETT 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-eight Thousand Two Hundred Sixty-two Dollars (\$198,262.00) 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

NOV 23 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).)