

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

IN THE MATTER OF THE CLAIM OF

RICHARD W. SCHULZ
and
LUCILLE T. SCHULZ

Claim No. CU-2812

Decision No. CU-6109

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on March 17, 1971; no oral hearing requested.

Hearing on the record held on June 23, 1972.

FINAL DECISION

Under date of March 17, 1971, the Commission issued its Proposed Decision certifying losses in favor of claimants in the amounts of \$23,754.37 and \$23,754.38, respectively, for certain real property in Cuba. A portion of the claim for certain personal property was denied for lack of proof. Claimants objected to the Proposed Decision and submitted documentary evidence in support of their objections.

Upon consideration of the new evidence in light of the entire record, the Commission amends the decision in this matter as follows:

The record now shows that claimants' land had a value of \$400.00 per acre on December 6, 1961, the date of loss. Therefore, claimants' 211.15 acres of land had therefore a value of \$84,460.00, and each claimant sustained a loss of \$42,230.00.

The Commission finds that claimants each owned a 1/2 interest in certain personal property maintained at their residence in Cuba. The Commission further finds that the personal property was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989.

Claimants have submitted an itemized list of the personal property asserting an aggregate value of \$14,233.34. The list includes furniture and related household effects, electric appliances, certain tools and office

equipment, a 1958 Plymouth automobile, clothing, as well as 5 horses, saddles and related equipment. The Commission notes that such properties were subject to reductions for annual depreciation at the rates of 5% for the furniture, 10% for the furnishings, appliances, tools and equipment, 15% for the automobile and 20% for the clothing. However, the record does not indicate the date of acquisition and cost of these items.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the items of personal property and equitable to the claimants is the result obtained by reducing the listed amount by 40% on account of depreciation. Accordingly, the Commission finds that the items of personal property had an aggregate value of \$8,540.00. Therefore each claimant sustained a loss of \$4,270.00 on December 6, 1961.

The losses within the meaning of Title V of the Act sustained by each claimant on December 6, 1961 therefore aggregated \$46,500.00.

Accordingly, the Certifications of Loss in the Proposed Decision of March 17, 1971 are set aside and the following Certifications of Loss will be entered, and in all other respects the Proposed Decision, as amended herein, is affirmed.

CERTIFICATIONS OF LOSS

The Commission certifies that RICHARD W. SCHULZ 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 Forty-Six Thousand Five Hundred Dollars (\$46,500.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that LUCILLE T. SCHULZ 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 Forty-Six Thousand Five Hundred Dollars (\$46,500.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, 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.

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

IN THE MATTER OF THE CLAIM OF

RICHARD W. SCHULZ
and
LUCILLE T. SCHULZ

Claim No. CU -2812

Decision No. CU 6109

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, was presented by RICHARD W. SCHULZ and LUCILLE T. SCHULZ for \$96,000 based upon the asserted ownership and loss of 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 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) (1970).)

Claimants describe their loss as three sub-divisions in the Isle of Pines, farm and other parcels of land, valued at \$86,000; a car and trailer, and other personal belongings including five horses, surveyor's instruments and contractors' tools.

Based upon the entire record, including declarations made by claimants to Cuban tax authorities, cancelled checks, copies of contracts to sell real property, and other related data, the Commission finds that claimants owned approximately 211.15 acres of land on the Isle of Pines in areas known as Santa Fe, Sierra de Caballos and Cuchilla Alta.

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

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-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.

The record includes cancelled checks indicating that claimant paid about \$19,000 for this property in 1957 and 1958. However, it appears that claimants

had made some improvements in the way of clearing and putting in roads. The Commission has considered the evidence as to the amounts certain parcels were sold for, as well as evidence available to the Commission as to the value of similar properties in Cuba.

Based on the entire record, the Commission finds that the land in question had a value of \$225 per acre, or \$47,508.75, and concludes that claimants suffered losses in this aggregate amount within the meaning of Title V of the Act.

Claimants have submitted no evidence in support of the claimed personality, although suggestions were made to them in this respect. The Commission finds that claimants herein have not met the burden of proof in this respect. Accordingly, this item of claim 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, as follows:

	<u>FROM</u>	<u>ON</u>
RICHARD W. SCHULZ	December 6, 1961	\$23,754.37
LUCILLE T. SCHULZ	December 6, 1961	\$23,754.38

CERTIFICATIONS OF LOSS

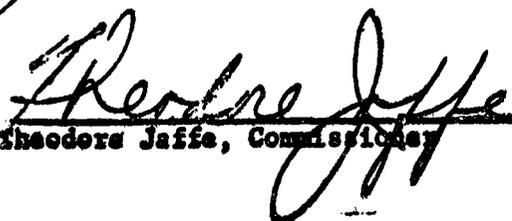
The Commission certifies that RICHARD W. SCHULZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Three Thousand Seven Hundred Fifty-Four Dollars and Thirty-Seven Cents (\$23,754.37) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that LUCILLE T. SCHULZ 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 Twenty-Three Thousand Seven Hundred Fifty-Four Dollars and Thirty-Eight Cents (\$23,754.38) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

MAR 17 1971


Paul 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 (1970).)