

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

IN THE MATTER OF THE CLAIM OF

ELAINE AULT WALKER

Claim No. CU-2814

Decision No. CU-494

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Rufus King, Esq.
Robert C. Salisbury, Esq.

Appeal and objections from a Proposed Decision entered on October 18, 1967;
Oral hearing requested.

Oral hearing held on October 7, 1971.

FINAL DECISION

Under date of October 8, 1967, the Commission issued its Proposed Decision denying this claim for lack of proof. Claimant objected to the Proposed Decision and submitted evidence in support of her objections. The Commission received a report from abroad concerning a portion of the claim.

Claimant requested an oral hearing which was held on October 7, 1971. At that hearing, counsel for claimant offered oral argument and claimant presented oral testimony. Subsequently additional supporting evidence was submitted.

Upon consideration of the entire record, including the material presented at the oral hearing and subsequently, the Commission amends the decision in this matter as follows:

The Commission finds that claimant, a national of the United States since birth, and her late husband, George T. Walker, jointly owned certain improved real property at Country Club Park, Havana, Cuba. Subsequently the property was transferred to their wholly owned Cuban corporation, Cia Inmobiliaria, Reila, S.A. Upon the testate death of her husband on March 30, 1952, claimant

succeeded to his interest. The Commission further finds that the property was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. The record shows that claimant had been offered \$120,000.00 for this improved real property by an official of the French Embassy in Havana, Cuba. On the basis of the entire record, the Commission finds that the value of the property on December 6, 1961 was \$120,000.00.

The Commission finds that claimant owned individually and through inheritance from her late husband certain items of personal property maintained at the improved real property in Country Club Park, Havana, Cuba, including an automobile. The Commission further finds that said personal property was taken by the Government of Cuba on December 6, 1961 when the real property was taken. Based on the entire record, the Commission finds that the aggregate value of the personal property on the date of loss was \$80,000.00.

The Commission finds that claimant owned certain unimproved real property at Santa Barbara and Finca Cuchilla Alta, Isle of Pines, Cuba. The Commission further finds that said real property was also taken by the Government of Cuba on December 6, 1961. Based on the evidence of record, the Commission finds that the aggregate value of this real property on the date of loss was \$16,800.00.

The Commission finds that claimant owned 7,700.00 Cuban pesos, equivalent to \$7,700.00. As a result of Cuban Law 963 and its implementation, claimant's currency was declared null and void. The record shows that claimant left Cuba for the United States and was unable to convert her pesos into United States dollars as a result of action by Cuban authorities. The Commission has held that in such circumstances a loss occurred on August 4, 1961 within the meaning of Title V of the Act. (See Claim of Betty G. Boyle, Claim No. CU-3473.) The Commission therefore finds that claimant sustained a loss of \$7,700.00 on August 4, 1961.

The Commission finds that claimant owned a bank account in a Cuban bank with a credit balance of \$2,400.80. The Commission further finds that said bank account was taken by the Government of Cuba on December 6, 1961; and that she sustained a loss in that amount.

The Commission finds that claimant owned 880 shares of stock in Cuban Bagasse Products, S.A., a Cuban corporation. The Commission has held that this Cuban corporation was intervened by the Government of Cuba on August 3, 1960; and that each share of its stock had a value of \$2.8607. (See Claim of George F. Baker, III, Claim No. CU-1017.) Therefore, claimant sustained a loss of \$2,517.42 on August 3, 1960.

The Commission finds that claimant maintained a safe deposit box at the First National City Bank, Havana Branch, in which she kept \$241,000.00. By virtue of an Administrative Instruction of February 15, 1961, all contracts for the hire of safe deposit boxes in Cuba were declared null and void as of February 17, 1961, and lessees thereof were given 30 days to remove the contents or the boxes would be forced open. (See Claim of Anna Littner, et al; Claim Nos. CU-3655, CU-8547 and CU-8548.) Since it appears that claimant did not remove the contents of her safe deposit box, the Commission finds that she sustained a loss of \$241,000.00 on March 18, 1961.

Claimant's losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Improved real property	December 6, 1961	\$120,000.00
Personal property	December 6, 1961	80,000.00
Unimproved real property	December 6, 1961	16,800.00
Cuban pesos	August 4, 1961	7,700.00
Bank account	December 6, 1961	2,400.80
Stock interest	August 3, 1960	2,517.42
Safe deposit box	March 18, 1961	<u>241,000.00</u>
Total		<u>\$470,418.22</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:

<u>FROM</u>	<u>ON</u>
August 3, 1960	\$ 2,517.42
March 18, 1961	241,000.00
August 4, 1961	7,700.00
December 6, 1961	<u>219,200.80</u>
Total	<u>\$470,418.22</u>


Accordingly, the following Certification of Loss will be entered, and in all other respects the Proposed Decision of October 18, 1967 as amended herein is affirmed.

CERTIFICATION OF LOSS

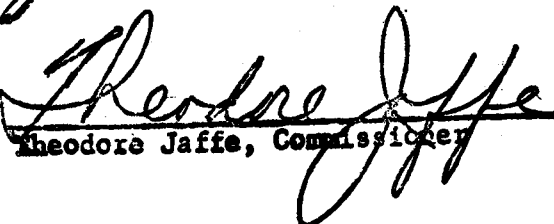
The Commission certifies that ELAINE AULT WALKER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Seventy Thousand Four Hundred Eighteen Dollars and Twenty-Two Cents (\$470,418.22) 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 Final
Decision of the Commission

OCT 20 1971



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.

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Counsels for claimant:

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Robert C. Salisbury, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$482,400.80, was presented by ELAINE AULT WALKER, and is based upon the asserted loss of certain improved real property, personal property, stock interests in the "Cuban Bagassee Company," of Cuba, and a bank account. Claimant states that she has been a national of the United States since her birth in the State of Illinois.

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 of 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 504 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 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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

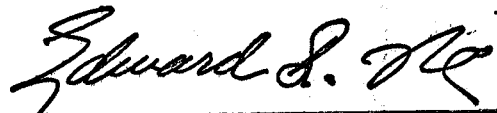
Claimant asserts the ownership of certain improved real property, personal property, stock interests in the "Cuban Bagasse Company", and a bank account; however, claimant has submitted no documentary evidence in support of this claim. By Commission letter of July 13, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act.

On August 22, 1967, counsel were invited to submit any evidence they might have within 45 days from that date, and they were informed that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Other than a carbon copy of a letter dated August 23, 1967 to Robert C. Salisbury, Esq., neither evidence nor correspondence has been submitted in support of this claim.

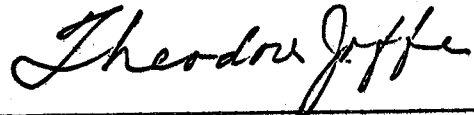
The Commission finds that claimant has not met the burden of proof, in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

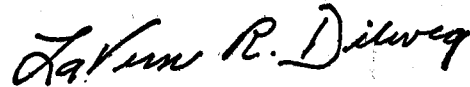
OCT 18 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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).)

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