

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

IN THE MATTER OF THE CLAIM OF

MILTON H. DAVIS, SR.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2843

Decision No. CU 6007

Counsel for claimant:

Kurt Wellisch, 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 amended amount of \$66,000.00, was presented by MILTON H. DAVIS, SR., based upon the asserted loss of certain real and 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.

Claimant asserts the following losses:

50% stock interest in Cia. Urbanizadora Davis, S.A. (Davis Development Corporation)	\$50,000.00
1/6 stock interest in Parcelacion Americana Isla de Pinos, S.A. (Parcelacion)	10,000.00
Residential lot 51, Brazo Fuerte Subdivision, Isle of Pines, Cuba	5,000.00
Residential lot 31, Brazo Fuerte Subdivision, Isle of Pines, Cuba	<u>1,000.00</u>
Total	<u>\$66,000.00</u>

Davis Development Corporation

The evidence includes copies of stock certificates; claimant's affidavits; and an affidavit of February 26, 1970 from Pedro Manuel Diaz, the former Mayor of the Isle of Pines, setting forth facts on the basis of personal knowledge. The Commission has also considered the record in Claim No. CU-2842, based in part on a 50% stock interest in Davis Development Corporation. That record includes extracts from pertinent land records in Cuba showing ownership of certain real property by Davis Development Corporation.

Based upon the foregoing evidence, the Commission finds that claimant owned a 50% stock interest in Davis Development Corporation, a Cuban corporation engaged in the real estate business. The extracts from the land records, contained in Claim No. CU-2842, show that Davis Development Corporation owned 7 caballerias of land (a caballeria equals 33.162 acres) on the Isle of Pines, Cuba. Therefore, this Cuban corporation owned 232.134 acres of land in Cuba. It further appears from the land extracts that the property was divided into 35 parcels, with varying numbers of lots in each parcel.

On December 6, 1961, Cuba published Law 989 in its Official Gazette which effected a confiscation of all assets, shares, real property, personal

property and other property rights of persons who left Cuba or American firms no longer doing business in that country. In the absence of evidence to the contrary, the Commission finds that the real property belonging to Davis Development Corporation 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]; and Claim of Boger & Crawford, Claim No. CU-0037.)

Since Davis Development Corporation was organized under the laws of Cuba, it does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The evidence establishes that claimant was married at the time he acquired his stock interest in Davis Development Corporation. Pursuant to the community property laws of Cuba, claimant's wife owned a one-half interest in said claimant's property. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.)

The evidence includes a copy of a final decree of divorce issued by a Florida court on March 6, 1970. As part of that decree, claimant's wife, a national of the United States since birth, waived all her rights to any property interests she may have acquired under the laws of Cuba in consideration of receiving certain other property. Therefore, claimant succeeded to his wife's interest in his claim, and was the sole owner of the claim on and after March 6, 1970.

It appears from the evidence of this record and that of Claim No. CU-2842 that Davis Development Corporation owned no assets other than the

above real property on the Isle of Pines, and that it had no liabilities on the date of loss, the real property not being encumbered by any mortgages or liens.

Upon consideration of the entire record, including Claim No. CU-2842, the Commission finds that claimant's valuation is fair and reasonable. Accordingly, the Commission finds that the net worth of Davis Development Corporation on December 6, 1961, the date of loss, was \$100,000.00. Therefore, the 50% interest therein, which claimant owned in part, and succeeded to in part upon divorce from his wife, had a value of \$50,000.00.

Parcelacion Americana Isla de Pinos, S.A.

On the basis of the entire record, including Claim No. CU-2842, the Commission finds that claimant owned a 1/6 stock interest in Parcelacion, a real estate business on the Isle of Pines, Cuba. The record shows that Parcelacion owned 30 hectares of land (1 hectare equals 2.471 acres) equivalent to 74.13 acres. The Commission further finds that Parcelacion's real property was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989.

It further appears from the record that Parcelacion owned no assets other than the said real property on the Isle of Pines, and that it had no liabilities on the date of loss, the real property not being encumbered by any mortgages or liens. It further appears that Parcelacion had developed the land and divided it into lots. A copy of an extract from the pertinent land records of Cuba, contained in Claim No. CU-2842, indicates that the property was divided into 14 parcels, with varying numbers of lots in each parcel. One of the parcels containing 5 hectares had been developed for use as a park.

Upon consideration of the entire record, including Claim No. CU-2842, the Commission finds that the net worth of Parcelacion on December 6, 1961, the date of loss, was \$60,000.00. Therefore, the 1/6 interest therein, which claimant owned in part and succeeded to in part upon the divorce from his wife, had a value of \$10,000.00.

Real Property

On the basis of a copy of an extract from pertinent land records in Cuba and an affidavit from the former Mayor of the Isle of Pines, the Commission finds that claimant owned residential lot No. 51 and residential lot No. 31, Brazo Fuerce Subdivision, Isle of Pines, Cuba. The Commission further finds that these two lots were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989; and that claimant succeeded to his wife's interests in the two lots by the divorce settlement of March 6, 1970.

The record shows that lot 51 had an area of 1907.96 square meters and that lot 31 had an area of 900 square meters. The lots were situated in a residential neighborhood, and had been acquired by claimant in 1958 at costs of \$5,000.00 and \$1,000.00, respectively. The Commission therefore finds that lots 51 and 31 had values of \$5,000.00 and \$1,000.00, respectively, on December 6, 1961, the date of loss.

The losses herein, including those to which claimant succeeded by the divorce settlement, occurred on December 6, 1961, and are summarized as follows:

<u>Item of Property</u>	<u>Amount</u>
Davis Development Corporation	\$50,000.00
Parcelacion	10,000.00
Residential lot 51	5,000.00
Residential lot 31	<u>1,000.00</u>
Total	<u>\$66,000.00</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.

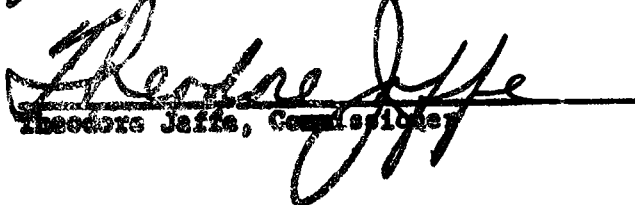
CERTIFICATION OF LOSS

The Commission certifies that MILTON H. DAVIS, SR. succeeded to and 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 Sixty-six Thousand Dollars (\$66,000.00) with interest 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

**JAN 6 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. 31.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)