

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

IN THE MATTER OF THE CLAIM OF

EDITH BLUM WALDMAN SALINAS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2865

Decision No. CU 6036

Counsel for claimant:

Husin, Miller & Levy
by Estelle Levithan

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 EDITH BLUM WALDMAN SALINAS in the amount of \$68,671.33 based upon the asserted ownership and loss of personal property and a stock interest in Cuba. Claimant has been a national of the United States since her naturalization on April 24, 1956.

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).)

Based upon evidence of record, further discussed below, the Commission finds that claimant held certain personalty and a stock interest, which property interests were taken by the Government of Cuba. Pursuant to the community property law of Cuba, these properties were owned in one-half part by claimant and in one-half part by her spouse, a Cuban national, whom she married on January 25, 1959. This, however, does not apply to property which claimant brought into the marriage. Accordingly, so much of the claim as may be based on the interest of her spouse must be and hereby is denied.

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.

FABRICA DE COLCHONES Y MUEBLES DIXIE, S.A.

This corporation was organized in Cuba for the purpose of manufacturing mattresses, pillows, upholstering and related items. On the basis of the record the Commission finds that claimant was the owner of 295 shares out of an outstanding issue of 640 shares.

The Commission further finds on the basis of the record in this case that Fabrica was intervened by the Government of Cuba on January 15, 1961, although it was later listed as nationalized on March 27, 1962. The Commission concludes that claimant suffered a loss in respect of her stock interest in Fabrica on January 15, 1961.

Claimant has submitted a balance sheet for this corporation as of October 31, 1960, as well as detailed lists of certain machinery and equipment, other fixed assets, office equipment, and furniture and fixtures. The balance sheet was assembled by a public accountant on the basis of financial records made available to him, and is accompanied also by a statement of operations for the ten months from the inception of the company operations on January 4, 1960 to October 31, 1960.

The balance sheet is summarized as follows:

<u>ASSETS</u>		<u>LIABILITIES</u>	
Cash	\$ 3,993.18	Bank loan	\$ 3,250.00
Receivables and advances	25,398.60	Suppliers	19,694.66
Inventories	51,961.41	President's	
Prepaid insurance	740.14	account	2,063.78
Machinery and equipment	9,710.35	Employees	
Furniture and equipment	3,152.86	accounts	454.86
Trucks	9,459.11	Sundry accrued	
Tools	237.40	expenses	<u>6,901.29</u>
Deferred charges, trade-			32,364.59
marks and guarantee		Capital	64,000.00
deposits	<u>1,889.34</u>	Net profit	<u>10,177.80</u>
	\$106,542.39		\$106,542.39

On the basis of the above, the Commission finds that the net worth of Fabrica on the date of taking was \$74,177.80 and that each share of stock was worth \$115.9028. Accordingly, the value of 259 shares was \$30,018.82 and claimant's one-half interest therein had a value of \$15,009.41.

It is said that claimant's spouse owned 25 shares of Fabrica, in which claimant would appear to have had a one-half interest. However, no evidence has been submitted in support of this assertion, and any claim based on an interest in an additional 25 shares is accordingly denied.

PERSONALTY

Claimant has submitted a list of the personal property claimed in a total amount of \$34,480, described as cost.

On the basis of the evidence of record the Commission finds that claimant did have an interest in certain personal property, as further discussed below, in Cuba.

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

The Commission finds that this law was applicable to claimant's personal property in Cuba and that in the absence of evidence to the contrary, the personal property was taken by the Government of Cuba on December 6, 1961, the date the law was published.

The list submitted includes paintings, art objects and certain china and crystal which the claimant brought into the marriage and which was not subject to the community property law of Cuba. The Commission finds that these were not depreciable and that their value on the date of loss was \$3,795.00.

The Commission finds that the amounts claimed as the cost of silver in the amount of \$825 and jewelry in the amount of \$1,245 are fair and reasonable, and not being subject to depreciation, that claimant's one-half interest therein on the date of loss had a value of \$1,035.00.

An item of \$1,800 is included by claimant for clothing described as man's and woman's. The Commission finds that one-half of this belonged to claimant's non- United States national spouse and that this claim not within the scope of Title V of the Act must be and it is denied. The Commission further finds that \$900 is a fair cost value of clothing, which however was subject to depreciation at the rate of 20 per cent for one year, and that the value on the date of loss was \$720.

Items of lamps, rugs, drapes and linens were valued by claimant at \$6,000. These were apparently acquired in 1959 and 1960, and were subject to depreciation at a rate of 10 per cent, for two years. Accordingly, their value at the date of loss was \$4,800 and the claimant's one-half interest had a value of \$2,400.00.

The remaining items on the list (not including an automobile and bank account) consist of furniture, appliances and miscellaneous furnishings valued by claimant in an amount of \$13,115, also acquired in 1959 and 1960. These were subject to depreciation at a rate of 5 per cent for two years. Accordingly, their value on the date of loss was \$11,803.50 and claimant's one-half interest had a value of \$5,401.75.

Claim is also asserted for a Mercedes Benz, Model 180, purchased in July, 1960. According to the Guide of the National Automobile Dealers Association, such a vehicle had a value of \$2,450 in late 1961, and the Commission so finds. Claimant's one-half interest therein had a value of \$1,225.00.

Additionally claim has been made for \$2,100 asserted as cash in savings and checkings accounts. No evidence such as bank statements has been submitted in support of this item, although claimant states that the personal checking accounts were in her name. The Commission finds that the burden of proof has not been sustained in this connection, and accordingly, this item of claim is denied.

Recapitulation

Claimant's losses within the scope of Title V of the Act are summarized as follows:

259 shares of Fabrica - 1/2 interest	\$15,009.41	January 15, 1961
Personalty solely owned	3,795.00	
Personalty communally owned - 1/2 interest	9,556.75	
Automobile - 1/2 interest	<u>1,225.00</u>	
	\$14,576.75	December 6, 1961

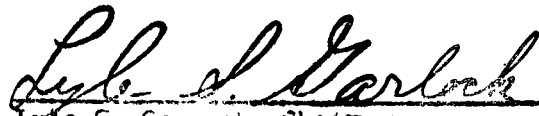
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered.

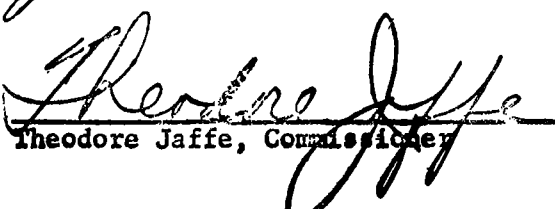
CERTIFICATION OF LOSS

The Commission certifies that EDITH BLUM WALDMAN SALINAS 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-Nine Thousand Five Hundred Eighty-Six Dollars and Sixteen Cents (\$29,586.16) 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

JAN 20 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 (1970).)