

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

IN THE MATTER OF THE CLAIM OF

JOHN LOWRY, JR. and
FREEMAN J. DANIELS,
EXECUTORS OF THE ESTATE OF
MILDRED HILL LOWRY, DECEASED

Claim No. CU-2951

Decision No. CU - 6000

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Perkins, Daniels & McCormack
By Robert K. Richardson, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented on May 1, 1967 in the name of The Santa Barbara Company by John Lowry, Jr. who stated that Mildred Hill Lowry was the sole owner of the company. It is for \$19,677.17 based upon the asserted ownership and loss of a bank account in Cuba, and interest thereon. Mildred Hill Lowry had been a national of the United States since birth. She died on February 23, 1968, prior to being substituted as claimant in this matter. JOHN LOWRY, JR., and FREEMAN J. DANIELS having been appointed Executors of the Estate of Mildred Hill Lowry, are substituted as claimants herein.

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.

Claim is described as follows:

Bank account in Chase Manhattan Bank, Havana	\$15,000.00
Acknowledged interest to August 24, 1960	140.61
Interest at 4% to May 1, 1967	<u>4,536.56</u>
	\$19,677.17

The record discloses that decedent was the sole shareholder of The Santa Barbara Company, a Cuban corporation.

Since The Santa Barbara Company 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 of record discloses that as of February 13, 1961, 15,140.61 pesos were on deposit in the Havana branch of The Chase Manhattan Bank, in the name of The Santa Barbara Company, the 140.61 pesos representing interest.

The Commission finds that the company had no assets other than the deposit of \$15,140.61 in the Havana branch of The Chase Manhattan Bank and had no liabilities.

On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country or American-owned entities no longer doing business in that country.

In the absence of evidence to the contrary, the Commission finds that the above-described bank account, totalling 15,140.61 pesos (which were on a par with United States dollars) was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]; and Claim of Boger and Crawford, Claim No. CU-0037.)

Accordingly, the Commission concludes that claimants succeeded to and suffered a loss in the amount of \$15,140.61 within the meaning of Title V of the Act.

Claim has also been presented for \$4,536.56 asserted as interest due on the above bank account to May 1, 1967. However, no evidence has been submitted that interest other than the above 140.61 pesos had been added to the account or taken from the decedent by the Government of Cuba. Accordingly, this item of claim is denied. However, 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 from December 6, 1961.

CERTIFICATION OF LOSS

The Commission certifies that JOHN LOWRY, JR. and FREEMAN J. DANIELS, EXECUTORS OF THE ESTATE OF MILDRED HILL LOWRY, DECEASED, 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 Fifteen Thousand One Hundred Forty Dollars and Sixty-one Cents (\$15,140.61) 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

JAN 6 1971

L. P. ... Chairman

Theodore ...

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 notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)