

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

IN THE MATTER OF THE CLAIM OF

CARMEN E. LLURIA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3075

Decision No. CU 4861

Counsel for claimant:

George H. Salley, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,022,441.51, was presented by CARMEN E. LLURIA and is based on the asserted loss of real property, securities and other personal property. 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 states that she lost an interest in real property, securities and personal property which she assertedly acquired through inheritance from her mother, Sarah Diaz, who died intestate on December 27, 1958, and by gift from her father, Juan B. Diaz.

Claimant describes her losses as follows:

Real Property

<u>Item</u>	<u>Asserted Value</u>
1) One two-story building in Campanario No. 112, Havana	\$ 26,000.00
2) One three-story building at Paseo de Marti (Prado 567), Havana	80,000.00
3) One two-story building at Industria 320, corner of San Miguel Street, Havana	48,000.00
4) One one-story building at A No. 114, Vedado, Havana	60,000.00
5) One one-story building at A No. 112, Vedado, Havana	15,000.00
6) One three-story building and garage with chauffeur's room and a corner lot included in 14 #304 Reparto Miramar, Marianao, Havana	80,000.00
7) One two-story building at Calle 13 (northwestern cor.) fronting north ocean at Residential Surf Club, Varadero, Matanzas	50,000.00
8) One empty lot No. 10 of Block No. 27 Playa de Marianao, Havana	9,000.00
9) One empty lot No. 11 of Block No. 18 Playa de Marianao, Havana	9,000.00
10) Tobacco warehouse, Prado 615, Havana (1/10 interest)	50,000.00
11) One lot No. 217 A of Section No. 24 of Reparto Barandilla, La Lisa, Marianao	25,000.00

<u>Item</u>	<u>Asserted Value</u>
12) One empty lot No. E of Lot 5 del Lido, fronting the north ocean, in Santa Maria del Mar, Guanabacoa, Havana	\$ 20,000.00
13) Five empty lots, Nos. 6, 7, 11, 12 and 13 of Block No. 46 of Reparto El Roble, Guanabacoa	<u>8,600.00</u>
(Total Realty)	\$ 480,600.00

Stocks, Bonds, Partnership Interest

	<u>Bonds</u>	<u>Shares</u>	<u>Asserted Value</u>
14) Agricola del Yumuri, S.A.		100	\$ 500.00
15) Cia. Cervecera de las Antillas, S.A.		750	15,000.00
16) Cia. Cubana de Electricidad	56	1,000	62,812.00
17) Henequenera de Juragua, S.A.		584	3,262.00
18) Cia. Inmobiliaria Fregosan, S.A.		480	48,000.00
19) Cia. de Jarcia de Natanzas, S.A.		100	2,000.00
20) Laboratorios Classic S.A. of Havana		680	68,000.00
21) Laboratorios Gravi, S.A.		290	29,000.00
22) Mercado de Columbia, S.A. Marianao		91	2,730.00
23) Cia. de Mercados Publicos, S.A.	265		121,743.00
24) Minimax Supermercados, S.A.		115	230.00
25) Nueva Fabrica de Hielo (La Tropical) S.A.		25	3,250.00
26) La Tabacalera, Cia. de Seguros, S.A.		100	10,000.00
27) Territorial Cascales, S.A.		1,243	124,300.00
28) Plaz de Octubre 1367 First Mortgage bond		One	15,000.00
29) Partnership interest in J. B. Diaz & Co.			<u>16,014.51</u>
(Total Securities)			\$ 521,841.51
30) Other Personalty			<u>20,000.00</u>
			\$1,022,441.51

Based upon the entire record, including information received from abroad, the Commission finds that claimant owned certain real property and securities,

further described below, which she acquired through inheritance from her mother, Sarah E. Diaz, and by gift from her father, Juan B. Diaz.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). Moreover, Article 30, provided for the cancellation of mortgages.

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

Accordingly, the Commission finds that claimant's improved real properties and mortgage bonds were taken on October 14, 1960 and her other interests were taken on December 6, 1961, except as may be specifically otherwise shown, further below.

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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The evidence includes the Estate Liquidation Accounting for the estate of Sarah E. Diaz, claimant's mother who died December 27, 1958 in Cuba; two 1967 affidavits of the attorney who formerly represented claimant in Cuba; a copy of claimant's statements of assets made on August 31, 1960; and reports received by the Commission concerning certain items of the claim.

Based upon the Liquidation Accounting which enumerates the items and value of the property which claimant inherited from her mother, and other evidence concerning the value thereof, the Commission finds that claimant owned the following property with the value and date of loss as shown:

<u>Item of Claim</u>	<u>Date of Loss</u>	<u>Value</u>
2) Property at Paseo de Marti	October 14, 1960	\$ 50,000.00
3) Property at 320 Industria	October 14, 1960	28,000.00
4) Property at 114A Street, Vedado	October 14, 1960	35,000.00
5) Property at 112A Street, Vedado	October 14, 1960	7,920.00
6) Property at 304 14th Street, Miramar	October 14, 1960	31,999.26
7) Property on 13th Street, Varadero	October 14, 1960	18,000.00
8) Lot 10, Block 27, Av. del Golfo, Playa de Marianao	December 6, 1961	4,521.00
9) Lot 11, Block 18, Playa de Marianao	December 6, 1961	4,530.00
11) Lot A, Parcel 217, Sec. 24, Reparto Barandilla	December 6, 1961	6,200.00
17) 256 shares of Henequenera Juragua	December 6, 1961	1,280.00
21) 240 shares, Preferred stock of Laboratorios Gravi, S.A.	June 29, 1961	24,000.00
22) 81 shares, Cia. de Mercado Columbia	December 6, 1961	1,215.00
26) 50 shares, Tabacalera Seguros, S.A.	December 30, 1960	3,750.00
27) 685 shares, Cia. Territorial Cascales, S.A.	December 6, 1961	10,275.00
29) Interest in J. B. Diaz & Co.	September 15, 1960	<u>16,014.51</u>
		\$242,704.77

The Commission, on the basis of other evidence of record, further finds that claimant was the owner of the following property which is listed with the date of loss and value thereof:

<u>Item of Claim</u>	<u>Date of Loss</u>	<u>Value</u>
1) Property at 112 Campanario	October 14, 1960	\$ 18,250.00
10) 1/10 interest in warehouse at Calle Prado No. 615, Havana	October 14, 1960	10,200.00
13) Lot 6, El Roble, Guanabacoa	December 6, 1961	1,390.00
Lot 7 " " "	December 6, 1961	1,390.00
Lot 11 " " "	December 6, 1961	1,279.00
Lot 12 " " "	December 6, 1961	2,286.00
Lot 13 " " "	December 6, 1961	1,390.00
18) 480 shares, Cia. Inmobiliaria Fregosa, S.A.	December 6, 1961	48,000.00
20) 480 shares, Laboratorios Classic, S.A.	December 6, 1961	48,000.00
21) 25 shares, Preferred stock of Laboratorios Gravi, S.A.	June 29, 1961	2,500.00
23) 5 bonds, Cia. de Mercados Publicos, S.A.	October 14, 1960	2,710.00
27) 508 shares, Cia. Territorial Cascales, S.A.	December 6, 1961	<u>7,620.00</u>
		\$145,015.00

The portion of item 16 that is based upon shares of stock in Compania Cubana de Electricidad is not certifiable as a loss since such a claim is based on a stock interest in a corporation which qualifies as a United States national. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FCSC Semiann. Rep. 48 [July-Dec. 1966].)

There remain for determination the balance of item 16 and items 12, 14, 15, 19, 24, 25, 28, and 30 which concern additional real property, securities, and personal property.

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) (Supp. 1967).)

CU-3075

Claimant was advised through counsel, as to the type of evidence proper for submission to establish this portion of the claim. However, no evidence has been received. On September 2, 1969, counsel advised the Commission that he had not been able to acquire additional evidence in support of the claim.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership and taking by the Government of Cuba of rights and interests in the last-mentioned property. Thus, the Commission is constrained to deny this part of the claim and it is hereby denied.

Claimant's losses may be summarized as follows:

	<u>Date of Taking</u>	<u>Value</u>
Improved real property	October 14, 1960	\$199,369.26
Unimproved lots	December 6, 1961	22,986.00
Bonds	October 14, 1960	2,710.00
Partnership	September 15, 1960	16,014.51
Stock interest	December 30, 1960	3,750.00
Stock interest	June 29, 1961	26,500.00
Stock interests	December 6, 1961	<u>116,390.00</u>
		\$387,719.77

The Commission has decided that in certification of losses 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

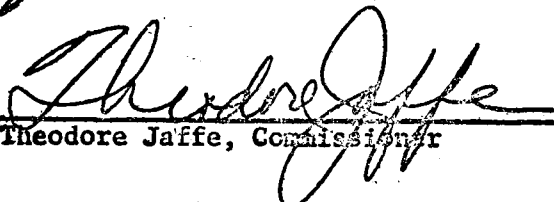
The Commission certifies that CARMEN E. LLURIA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Hundred Eighty-seven Thousand Seven Hundred Nineteen Dollars and Seventy-seven Cents (\$387,719.77) with interest thereon at 6% per annum from the aforesaid dates of loss to the date of settlement.

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

MAY 20 1970



Lyle S. Garlock, Chairman



Theodore Jaffe, Commissioner



Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)

CU-3075