

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

IN THE MATTER OF THE CLAIM OF

ARNULFO ARROYO
SHIRLEY ARROYO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3102

Decision No. CU - 483

AMENDED PROPOSED DECISION

By Proposed Decision issued October 18, 1967, the Commission denied this claim for failure of proof. Since then claimants have submitted certain evidence, and the Commission having examined the entire record herein, amends the Proposed Decision.

Based on the entire record, including a report from abroad, the Commission finds that claimants owned a residence at 2107 218th Street, Biltmore, Havana, Cuba, as well as certain personalty therein.

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).

Based on the foregoing, the Commission finds that this improved real property was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission further finds that the personal property in the house was also taken on October 14, 1960.

The record further establishes that claimants owned a bank account in the Trust Company of Cuba; and also owned a 1958 Ford Fairlane automobile.

On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property, rights, shares, stocks and the like of persons who had left the country. Claimants had left the country in July 1960 and the Commission finds that this law applied to them.

The Commission therefore finds, in the absence of evidence to the contrary that the bank account and the automobile were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]; and Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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 record includes the report from abroad on the improved realty, receipts of payments and detailed explanations of claimant, lists of personalty with asserted values, a record as to the passbook and other data pertaining to value.

On the basis of the record the Commission finds that the residence had a value of \$35,000.00 but was encumbered by a mortgage the value of which must be deducted and thereafter it is seen that claimants' equity had a value of \$22,807.66 on the date of loss.

Claimant SHIRLEY ARROYO has cited personalty of her own having an asserted value of \$1,350.00; and both claimants have listed personalty jointly owned, with a total asserted value of \$13,050.00. It further appears that the personalty was acquired between July 1955 and July 1960. The Commission finds that the average age of the items was two years, and that the clothing of SHIRLEY ARROYO was subject to depreciation at 20% per year, and the other items were subject to depreciation at 5% per year. Thus the Commission finds

that on the date of loss the personalty solely owned by SHIRLEY ARROYO had a value of \$810.00, and the personalty which was jointly owned had a value of \$11,718.00.

The record, which includes reference to a passbook, reflects that the bank account had a balance of \$1,467.19 which was taken on December 6, 1961.

Further, the claimants assert that the automobile cost \$2,800.00. Such vehicles are subject to depreciation at the rate of 15% per year, and accordingly, on the date of loss, the Commission finds that the automobile had a value of \$1,960.00.

Manufacturera Del Sur, S.A.

The record includes evidence of a stock certificate for 20 shares of Manufacturera Del Sur, S.A. issued to ARNULFO ARROYO in 1959. There is of record an affidavit of one who worked for the company as a salesman for fifteen years and states that it was commonly understood that ARNULFO ARROYO owned one-third of the company. However, the record does not support ownership of more than 20 shares.

The Commission finds that Manufacturera Del Sur, S.A. was nationalized by the Government of Cuba on October 24, 1960, when the Government of Cuba nationalized a number of commercial enterprises.

Claimants have submitted a balance sheet for Manufacturera prepared as of November 30, 1960, which reflects the following:

ASSETS		LIABILITIES	
Cash	\$ 3,111.88	Accounts Payable	\$ 10,329.90
Accounts Receivable	29,493.15	Commissions due	679.95
Prepaid Insurance and Guarantee deposits	436.66	Taxes	1,682.52
Inventory	29,711.68	Officials' accounts	622.27
Miscellaneous personalty and investments	8,722.84	Mortgage	270.42
Land	1,544.80	Loans	<u>17,395.50</u>
Building (depreciated)	6,835.10		\$ 30,980.56
Machinery & furniture (depreciated)	<u>30,988.10</u>	Capital:	
	\$110,844.21	1000 shares at \$50	\$ 50,000.00
		Surplus	<u>29,863.65</u>
			\$ <u>79,863.65</u>
			\$110,844.21

On the basis of the above, the Commission finds that the net worth of Manufacturera on the date of loss was \$79,863.65, that each share had a value of \$79.8636, and that claimants' twenty shares had a value of \$1,597.27.

The Commission affirms its denial of claim based on Polyplasticos Industriales, on Arroyo y Desloge, on 6 acres of land and insurance policies, for failure to maintain the burden of proof.

Pursuant to the community property law of Cuba, claimants, who were married in 1950, held equal interests in the above-described properties. ARNULFO ARROYO, however, asserts he became a national of the United States in 1964 by naturalization. Inasmuch as the Act requires that a claim be continuously owned by a United States national from the date of loss until the date of filing, his interests are not certifiable under the Act, and his claim is hereby denied.

The losses of SHIRLEY ARROYO within the scope of Title V of the Act are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
Residence	October 14, 1960	\$11,403.83
Personalty, solely owned	October 14, 1960	810.00
Other personalty	October 14, 1960	5,859.00
Automobile	December 6, 1961	980.00
Bank account	December 6, 1961	733.60
Manufacturera	October 24, 1960	<u>798.64</u>
		\$20,585.07

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>NO</u>
October 14, 1960	\$18,072.83
October 24, 1960	798.64
December 6, 1961	<u>1,713.60</u>
	\$20,585.07

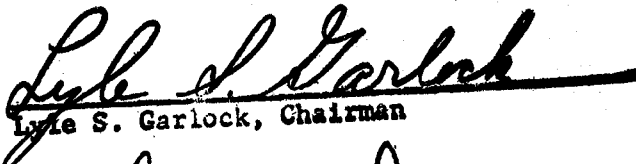
Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

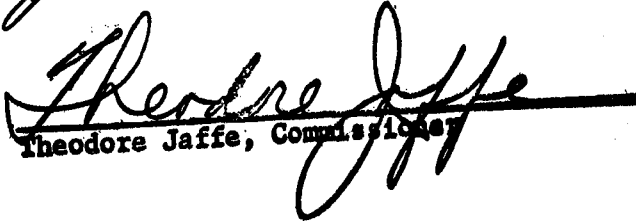
CERTIFICATION OF LOSS

The Commission certifies that SHIRLEY ARROYO 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 Thousand Five Hundred Eighty-five Dollars and Seven Cents (\$20,585.07) 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 Amended Proposed Decision of the Commission

MAK 24 1971


Lytle 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 Amended 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 (1970).)

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

IN THE MATTER OF THE CLAIM OF

ARNULFO ARROYO
SHIRLEY ARROYO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3102

Decision No. CU 483

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 \$324,100.00 was presented by ARNULFO ARROYO and SHIRLEY ARROYO, and is based upon the asserted loss of real and personal property, stock interests, and a bank account located in Cuba. Claimant ARNULFO ARROYO asserts that he has been a national of the United States since his naturalization in San Juan, Puerto Rico on March 19, 1964; claimant SHIRLEY ARROYO has been a national of the United States since her birth in the State of Michigan.

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 owned 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 the 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 on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimants assert the ownership of certain stock interests, improved real property, personal property, and a bank account located in Cuba; however, claimants have submitted no documentary evidence in support of their claim. By Commission letter of July 12, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act.

On August 22, 1967, claimants 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. Claimants have not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

The Commission finds that claimants have not met the burden of proof, in that they have 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

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

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).)