

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

IN THE MATTER OF THE CLAIM OF

A. G. HAILE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3156

Decision No. CU 6159

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 A. G. HAILE for \$90,212.06 based upon the loss of improved real property and personal property, and stock interests in a Cuban corporation. 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.

Pursuant to the community property law of Cuba, spouses have equal interests in property acquired during coverture, except for property inherited or that acquired by gift. Claimant's spouse is not a national of the United States and any interest she might have in the property subject of this claim cannot be considered.

Real Property and Personal Property

The evidence of record consists of the original bill of sale of real property dated June 26, 1959; a report from abroad and correspondence.

Based on the entire record the Commission finds that claimant and his spouse owned equal interests in improved real property, recorded as lots 16 and 17, Section 76, Biltmore, Marianao, Havana, Cuba with certain household furniture, fixtures and personal effects therein.

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 left Cuba. The record shows that claimant and his family left Cuba on June 29, 1960.

Based on the foregoing, the Commission finds that the subject real and personal property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The record reflects that the land comprising 1,125m² had been purchased for \$9,660.00. It was improved by a two story, masonry and concrete residence with four bedrooms, three baths, garage and patios. This residence had been constructed in 1958. The entire property had been appraised for \$40,000.00. There were no mortgages against the property.

The claimant asserted its improved real property had a value of \$41,413.00 at the time of loss and the Commission finds this evaluation fair and reasonable.

As to the personal property in the aforementioned residence claimant has asserted that it had a value, as depreciated, of \$3,943.00, including

a 1957 Dodge Sedan valued at \$2,080.00. The Commission finds that the personal property, with the exception of the automobile, after appropriate depreciation, had a value of \$1,863.00.

With respect to the automobile, claimant values a 1957 Dodge Sedan at \$2,080.00 stating it cost \$3,700.00. No evidence has been submitted in support of this specific evaluation. On the basis of the 1961 Guide of the National Automobile Dealers Association, the Commission finds that at the time of loss the Dodge had a value of \$925.00.

In summary, the real property had a value of \$41,413.00 and the personal property, a value of \$2,788.00. The Commission finds that claimant sustained a loss in the amount of \$22,100.50 for his 1/2 interest therein.

Shares of Stock

Claimant states that his father established in 1924 a public warehouse in Cuba known as Cia Cubana de Almacenes, S.A.; upon said father's death claimant inherited 48 shares of stock in the company, he purchased another 25 shares from stockholders resulting in his ownership of 73 shares of an asserted 150 outstanding, or 48.66% ownership of the company.

Claimant further states that when he left Cuba it was not possible to take the records with him that would establish this part of the claim. In support of his statements claimant has submitted a comparative schedule of selected operating and balance sheet items for 1946 through 1955; his estimated statement of the assets and liabilities of the company as of January 15, 1961; affidavits of third parties attesting to the fact that claimant was the principal stockholder of the corporation and that the corporation was a growing business.

Cia Cubana de Almacenes, S.A. was taken by the Government of Cuba pursuant to Law No. 890 of October 13, 1960, by Order No. 7, published in the Cuban Official Gazette on September 13, 1961. The Commission finds that whatever ownership interest claimant may have had was taken on September 13, 1961.

The Commission has examined all the evidence of record. It finds that the evidence is of insufficient probative value to establish (1) claimant's asserted 48.66% ownership in the said firm and (2) that the asserted net worth of the firm at the time of loss was \$156,738.71. Thus, the Commission is constrained to deny this part of the claim and it is hereby denied.

The Commission concludes that claimant sustained a loss within the meaning of Title V of the Act in the amount of \$22,100.50.


The Commission has decided that in certification 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 the Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

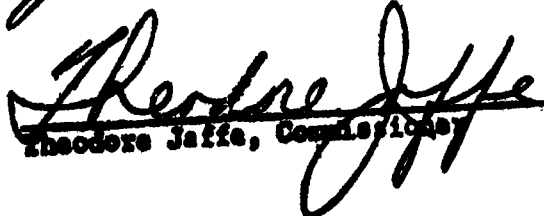
CERTIFICATION OF LOSS

The Commission certifies that A. G. HAILE 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-Two Thousand One Hundred Dollars and Fifty Cents (\$22,100.50) 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

APR 14 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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 (1970).)