

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

IN THE MATTER OF THE CLAIM OF

MARVIN SHAPIRO
AND
GLORIA SHAPIRO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3186

Decision No. CU- 4150

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$28,000 was presented by MARVIN SHAPIRO and GLORIA SHAPIRO based upon the asserted loss of their interest in a Cuban corporation and personal property. Claimants have been nationals 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.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The evidence establishes and the Commission finds that pursuant to the Community Property Laws of Cuba claimants MARVIN SHAPIRO and GLORIA SHAPIRO, each owned a 50% interest in Muebles Marvin, S.A., a corporation organized under the laws of Cuba, a furniture factory.

Evidence available to the Commission discloses that Muebles Marvin, S.A. was nationalized pursuant to Resolution No. 177, published in the Cuban Official Gazette of July 7, 1961.

Since Muebles Marvin, S.A. 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 previously that an American stockholder in such a corporation is entitled to file a claim based upon his ownership interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

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 record includes copies of the stock certificates representing 152 shares at \$100 par; and copies of a balance sheet for Muebles Marvin dated August 14, 1959 verified by an accountant. The statement reflects the following, the peso being on a par with the United States dollar:

ASSETS

Cash on hand	\$ 200.00
Bank	31.83
Accounts Receivable	2,639.94
Machinery, Electric Equipment, Electric Light Installations	10,360.00
Office Equipment	630.00
Electricity Deposit	300.00
Rent Deposit	150.00
Inventory	<u>9,709.90</u>
	\$24,021.67

LIABILITIES

Accounts Payable	\$ 9,705.80
Taxes Pending	2,626.52
Bills Payable	2,215.00
Advances for Merchandise	<u>6,570.71</u>
	\$21,118.03
Capital	\$15,200.00
Loss	<u>12,296.36</u>
Net	<u>2,903.64</u>
	\$24,021.67

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimant is that shown on this balance sheet which indicates that the net worth of the Cuban corporation was \$2,903.64.

Accordingly, the Commission finds that claimants, as sole owners of the Cuban corporation, suffered a loss as a result of the taking of the corporation by the Government of Cuba, in the amount of \$2,903.64 within the meaning of Title V of the Act on July 7, 1961.

Other Personal Property

Claimants state that they also lost other personal property consisting of silverware and a chandelier totalling \$3,808.00. In support of this item, claimants submitted an affidavit by claimant, MARVIN SHAPIRO, listing the approximate date of acquisition and the estimated cost of each item. An affidavit by the sister of claimant, MARVIN SHAPIRO, was also submitted.

Except for the set of silverware asserted to have been given claimants by the parents of claimant, MARVIN SHAPIRO, in the hope they would be able to take it with them on leaving Cuba, the Commission finds that claimants owned the personal property in question.

On December 6, 1961 the Cuban Government published its Law 989 in its Official Gazette, which confiscated all assets, including personal property of persons who had left Cuba.

Since the record shows that claimants left Cuba for the United States in March 1960, the Commission finds, in the absence of evidence to the contrary, that the personal property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record the Commission further finds that the personal property in question had an aggregate value of \$3,231.00, and that claimants suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of this personalty by the Government of Cuba on December 6, 1961.

With regard to the portion of this claim based upon the asserted gift of a set of silverware to claimants by the parents of claimant, MARVIN SHAPIRO, the Commission finds that the evidence of record is of insufficient probative value to establish claimants' ownership of this personal property. Accordingly this portion of the claim is hereby denied.

Summary

Accordingly, the Commission finds that claimants, MARVIN SHAPIRO and GLORIA SHAPIRO, suffered the following losses within the meaning of Title V of the Act:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Stock Interest in Cuban Corporation	July 7, 1961	\$2,903.64
Other Personal Property	December 6, 1961	<u>3,231.00</u>
		\$6,134.64

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 Claim Lisle Corporation, Claim No. CU-0644), and in the instant case, it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that MARVIN SHAPIRO and GLORIA SHAPIRO 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 Six Thousand One Hundred Thirty-Four Dollars and Sixty-Four Cents (\$6,134.64) 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 Proposed
Decision of the Commission

28 OCT 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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).)

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