

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

IN THE MATTER OF THE CLAIM OF

PLACIDO NAVAS COSTA;
MERCEDES ARBONA;
DOLORES GAUDIER;
MYLES T. NAVAS;
Fifth Sibling; and
Sixth Sibling

Claim No. CU-3344

Decision No. CU 6016

Under the International Claims Settlement
Act of 1949, as amended

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 2, 1967 after due notice on behalf of Placido Navas Marquez (now deceased) for \$406,500 based upon the asserted ownership and loss of certain real properties and a business in Cuba.

Placido Navas Marquez was last married to Francisca Costa Garcia, a United States national from birth who died intestate on May 27, 1966. Placido Navas Marquez, also a United States national from birth, died intestate on March 22, 1969, survived by six children who are substituted as claimants herein. Two of these heirs are outside the United States and need not be identified in this decision.

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.

The aggregate losses, subject of this claim, were described as follows:

1)	563 Goicuria, Havana	\$ 17,500	
2)	561 Goicuria	17,500	
3)	565 Goicuria	60,000	
4)	Freyre de Andrade, No. 114	9,000	
5)	Freyre de Andrade, No. 112	9,000	
6)	4th between C and D, Playa Hermosa	22,500	
7)	C and 4th, Playa Hermosa	20,000	
8)	Lot (related to item (5))	10,000	
9)	Patrocinio 412	20,000	
10)	Trocadero 75	16,000	
11)	72.727% of P. Navas & Co.	80,000	
12)	Inventory of P. Navas & Co.	<u>125,000</u>	
			\$406,500

REAL PROPERTY

Based upon the entire record, including an adjudication of the estate of claimants' uncle, a widower, as well as a listing of deeds, and reports from abroad, the Commission finds that Placido Navas Marquez (now deceased) owned fractional interests in certain realties in Cuba, further discussed below, and upon his death, on March 22, 1969, his six children succeeded to his interests.

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).

On the basis of the foregoing, the Commission finds that the real property interests of Plácido Navas Marquez in Cuba were 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 finds that Plácido Navas Marquez owned the following real property interests:

- (2) All of the improved realty at 561 Goicuria
- (3) 1/2 of the improved realty at 565 Goicuria
- (4) 1/2 of Freyre de Andrade 114, improved
- (5) 1/2 of Freyre de Andrade 112, improved
- (6) 1/2 of property on 4th Street, between C and D, Playa Hermosa
- (7) 1/2 of property at C and 4th, Playa Hermosa
- (8) 1/2 of the lot in Deed 202 (related to item (5))
- (9) All of Patrocinio 412
- (10) All of Trocadero 75

With respect to the property at 563 Goicuria (Item 1), the Commission finds that this house and lot belonged to Carmen Navas Franquiz and Monserrate Navas Franquiz (Claim No. CU-3013), cousins of claimants, and that claimants herein had no interest therein. Accordingly, this part of the claim is denied.

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, in addition to asserted values, those values recited in the Document of Adjudication of the Estate of Francisco Navas y Marquez, uncle of claimants; descriptions of the properties; rental figures, said to be depressed by Cuban legislation "freezing" rentals, and values in reports obtained from abroad. On the basis of this record, the Commission finds that the interests of Placido Navas Marquez (now deceased) in the real properties had the following values:

<u>Item</u>	<u>Value</u>
(2) 561 Goicuria	\$ 8,000.00
(3) 565 Goicuria	15,000.00
(4) 114 Freyre de Andrade	1,300.00
(5) 112 Freyre de Andrade	1,800.00
(6) 4th between C and D	2,500.00
(7) C and 4th	3,700.00
(8) Lot (related to (5))	110.00
(9) Patrocinio 412 (equity)	9,500.00
(10) Trocadero 75 (equity)	<u>3,620.00</u>
	\$45,530.00

Accordingly, the Commission concludes that these six claimants succeeded to and suffered a loss in the aggregate amount of \$45,530.00 within the meaning of Title V of the Act, as the result of the taking of these real properties by the Government of Cuba on October 14, 1960.

P. Navas & Co.

According to the record this entity, engaged in the import-wholesale business, particularly bicycles and parts, since at least the early 1950s when one Francisco Navas Marquez (brother of the decedent in this matter) owned an interest in it, and when it was known as F. Navas & Co. Upon the death of said Francisco Navas Marquez on December 2, 1951, his interest was devised to his daughters (claimants in CU-3013) and in the settlement of his estate it was valued at \$58,795.49.

Thereafter in about 1952 or 1953, Placido Navas Marquez (now deceased) and his son PLACIDO NAVAS COSTA, (one of the claimants herein) purchased the interest of the sisters. A notarial document, No. 213, of May 29, 1959 sets out that the father and son were partners, the name of the entity

having been changed, that the capital had been increased to \$110,000 in which the interest of the father was \$80,000 and the interest of his son was \$30,000, and that profits and losses were to be divided equally. Claim is made here only for the interest of Placido Navas Marquez (now deceased) specifically his capital of \$80,000 and one-half of an asserted inventory of \$125,000.

The Commission finds that in fact Placido Navas Marquez (now deceased) was the owner of P. Navas & Co. to the extent of 72.727 per cent.

The data accumulated by the Commission does not disclose a date of nationalization of this entity by the Government of Cuba. The record in this case variously asserts taking on January 1, 1959, when the communist regime took over the country of Cuba; that it was taken over in 1965; and that it was seized during the period 1961 to 1965. On the basis of this record, and in the absence of evidence to the contrary, the Commission finds that the entity P. Navas & Co. was nationalized by the Government of Cuba on June 30, 1965.

In addition to the capital investment, it is said that there was a warehouse inventory of \$125,000 and that yearly sales amounted to \$650,000. In support there has been submitted various excerpts from the records of companies who shipped materials to the company in Cuba, in 1958 and 1959, reflecting shipments of \$78,060.47, \$92,012.90, \$24,221, \$43,397.80, and the like. It is said that no balance sheets are available. Also, the record includes an affidavit from a former commercial loan officer with title of Assistant Manager of the First National Bank of Boston in Havana from 1940 to 1960, who states that to his recollection the company had a credit line with that bank of \$100,000 and their inventory was in the neighborhood of \$200/250,000. Further, the record includes the affidavit of a former accountant in Cuba who numbered the company among his clients, and who states that Placido Navas Marquez (now deceased) was a partner with an investment of \$80,000 of the total \$110,000 invested; that the book

value of his investment at 1959-1960 was more than \$90,000 approximately; and that the partnership was taken in 1965.

The Commission has considered this record and finds that the asset value of P. Navas & Co., on the date of loss, was \$110,000 from which must be deducted a debt of \$68,301.15 (which has been certified as a loss to another claimant in Claim No. CU-0126). Accordingly, the net value of P. Navas & Co. is found to have been \$41,698.85, and the interest therein of Placido Navas Marquez (now deceased) was \$30,326.32, to which these six claimants have succeeded in equal parts.

Recapitulation

The losses within the scope of Title V of the Act to which these claimants have succeeded are summarized below:

	<u>Realty</u>	<u>Business</u>
PLACIDO NAVAS COSTA	\$7,588.33	\$5,054.39
MERCEDES ARBONA	7,588.33	5,054.39
DOLORES GAUDIER	7,588.33	5,054.38
MYLES T. NAVAS	7,588.33	5,054.38
Fifth Sibling	7,588.34	5,054.38
Sixth Sibling	7,588.34	5,054.38

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>ON</u>
PLACIDO NAVAS COSTA	Oct. 14, 1960	\$7,588.33
	June 30, 1965	5,054.39
MERCEDES ARBONA	Oct. 14, 1960	7,588.33
	June 30, 1965	5,054.39
DOLORES GAUDIER	Oct. 14, 1960	7,588.33
	June 30, 1965	5,054.38
MYLES T. NAVAS	Oct. 14, 1960	7,588.33
	June 30, 1965	5,054.38
FIFTH SIBLING	Oct. 14, 1960	7,588.34
	June 30, 1965	5,054.38
SIXTH SIBLING	Oct. 14, 1960	7,588.34
	June 30, 1965	5,054.38

CERTIFICATIONS OF LOSS

The Commission certifies that PLACIDO NAVAS COSTA 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 Twelve Thousand Six Hundred Forty-two Dollars and Seventy-two Cents (\$12,642.72) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

The Commission certifies that MERCEDES ARBONA 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 Twelve Thousand Six Hundred Forty-two Dollars and Seventy-two Cents (\$12,642.72) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

The Commission certifies that DOLORES GAUDIER 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 Twelve Thousand Six Hundred Forty-two Dollars and Seventy-one Cents (\$12,642.71) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

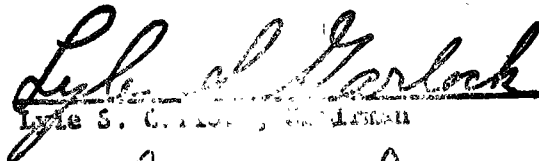
The Commission certifies that MYLES T. NAVAS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twelve Thousand Six Hundred Forty-two Dollars and Seventy-one Cents (\$12,642.71) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

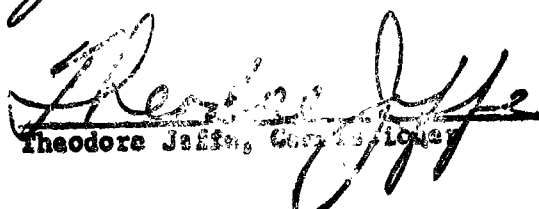
The Commission certifies that A Fifth Sibling suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twelve Thousand Six Hundred Forty-two Dollars and Seventy-two Cents (\$12,642.72) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that A Sixth Sibling 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 Twelve Thousand Six Hundred Forty-two Dollars and Seventy-two Cents (\$12,642.72) with interest thereon 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

JAN 6 1971


Lyle S. Cannon, Chairman


Theodore Jaffe, Counselor

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).)