

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

IN THE MATTER OF THE CLAIM OF

ALBERT JOHN FERRER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3963

Decision No. CU -4659

Appeal and objections from a Proposed Decision entered on March 25, 1970;
no hearing requested.

Hearing on the record held on September 30, 1971.

FINAL DECISION

Under date of March 25, 1970, the Commission issued its Proposed Decision certifying a loss in favor of claimant in the amount of \$18,511.47 plus interest. That amount represented claimant's 1/2 interests in certain improved real property in Havana, Cuba, in certain furniture, equipment and two automobiles maintained at the site of the real property, and in two bank accounts in Cuba. The other 1/2 interests were owned by claimant's wife, a nonnational of the United States who is ineligible under the Act.

Claimant objected to the valuations assigned to the two automobiles and the furniture and equipment. It is asserted by claimant that the application of a 50% reduction on account of depreciation of said personal property was improper because his valuations thereof had already taken into account appropriate depreciation as of November 5, 1965, the date of his affidavit in which such valuations were set forth. No evidence was submitted in support of the objections.

Upon consideration of claimant's objections in light of the entire record, the Commission finds the objections to be without merit. It is noted that claimant listed in his affidavit a 1959 four-door Peugeot automobile and a 1959 four-door Simca automobile valued by claimant at


\$3,000.00 and \$2,000.00, respectively. Information available to the Commission indicates that the average retail prices for such automobiles as of October 1961 were \$1,000.00 and \$660.00, respectively. Considering the fact that the automobiles were taken by Cuba on December 6, 1966, when they were seven years old, the Commission's valuation of \$2,500.00 appears fair and reasonable.

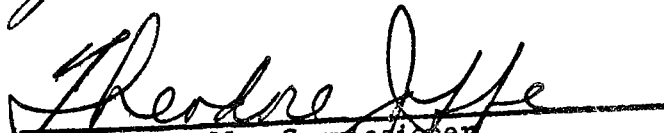
Claimant's affidavit also set forth valuations aggregating \$9,555.60 for the many items of furniture and equipment, acquired generally in 1958 and 1959, although some items are indicated for 1956, 1957 and 1960. Considering the ages of the items of furniture and equipment (electric appliances) on December 6, 1966, the date of loss, it appears upon examination of claimant's listing that his valuations were his original costs. Since the furniture and the equipment were subject to depreciation factors of 5% and 10% per year, respectively, the Commission's valuations as of the date of loss appear fair and reasonable.

Accordingly, the Commission finds no valid basis for altering the Proposed Decision of March 25, 1970. The Proposed Decision is therefore affirmed in all respects.

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

SEP 30 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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Decision No. CU 4653

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was opened by the Commission on behalf of ALBERT JOHN FERRER who, subsequent to his return to the United States, adopted this action and makes claim for \$44,290.73 based upon the asserted ownership and loss of certain real and personal property in Cuba.

Claimant has been a national of the United States since his naturalization in 1943.

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 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.

Claimant describes his loss as follows:

Home including improvements in Havana	\$26,000.00
Furniture and equipment	9,545.60
Two automobiles	5,000.00
Two bank accounts	<u>3,745.13</u>
	\$44,290.73

Based upon the entire record, including a report from abroad and a copy of statement prepared by claimant and his wife on December 27, 1965, and considering the community property laws of Cuba, the Commission finds that claimant owned a one-half interest in the real and personal property in question. Since claimant's wife is a Cuban national, so much of this claim as is based on her interest is hereby denied.

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

Based on the foregoing and the evidence of record, the Commission finds that claimant's realty and personal property including the bank accounts in Cuba were taken by the Government of Cuba on December 6, 1966, pursuant to the provisions of Law 989 even though claimant remained in possession thereof for awhile thereafter. (See 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, in support of the claimed values, a description of the improved realty as a one-story house on a lot measuring about 1308 square meters, modern construction with walls of double crisscross bricks and a concrete roof, and having about 11 rooms, enclosed terrace and usual facilities. Claimant has also submitted eight photographs of his home which show the improvements to his property. With regard to the realty the record includes a report from abroad which states that the property in question measures 1,380.49 square meters, is valued at \$18,000.00, and is unencumbered.

The record also includes a list of the personalty including the identification of the two automobiles as a 1959 Peugeot and a 1959 Simca, and of the two bank accounts. This list includes the date of purchase and purchase price of the personalty.

On the basis of the evidence of record, the Commission finds that on the date of loss the realty including the improvements had a value of \$26,000.00, that the two bank accounts had a total value of \$3,745.13 (the peso being on a par with the United States dollar), and that the remaining personalty including the two automobiles, after appropriate depreciation, had an aggregate value of \$7,277.80.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$13,000.00 for his interest in the improved realty, \$1,872.57 for the two bank accounts, and \$3,638.90 for the remaining personalty including the two automobiles, or a total of \$18,511.47, within the meaning of Title V of the Act as a result of the taking of his property by the Government of Cuba.

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 ALBERT JOHN FERRER 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 Eighteen Thousand Five Hundred Eleven Dollars and Forty-Seven Cents (\$18,511.47) with interest thereon at 6% per annum from December 6, 1966 to the date of settlement.

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


MAR 25 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).)