

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

IN THE MATTER OF THE CLAIM OF

RAFAEL A. RIVEROL

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-8761

Decision No. CU -5984

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 RAFAEL A. RIVEROL for \$4,615.00 based upon the asserted ownership and loss of real and personal property in Cuba. Claimant has been a national of the United States since birth and returned to the Continental United States in June 1970. The Commission's general action in June 1967 in opening claims for Americans in Cuba protects this claimant as well.

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.

Claimant describes his loss as follows:

- |   |                         |
|---|-------------------------|
| (1) a plot of land, Lot 329 at<br>Reparto Mirador del Cotorro, Havana | \$ 800                  |
| (2) Personalty, including a 1956<br>Plymouth automobile               | <u>3,815</u><br>\$4,615 |

Based upon the entire record, including a copy of a deed and claimant's affidavit the Commission finds that claimant owned the plot of land and certain personal property in Cuba.

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 property in Cuba was taken by the Government of Cuba pursuant to the provisions of Law 989 and, in the absence of evidence to the contrary, that the taking occurred on January 29, 1967, although claimant may have remained in possession for a period of time thereafter.

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 copy of the deed reflecting the purchase price of \$800 for land, and claimant's itemized list of personalty.

Based on the entire record, the Commission finds that the land had a value of \$800, and the personalty after usual depreciation had a value of \$2,420.88. Accordingly, the Commission concludes that claimant and his spouse suffered a loss in the amount of \$3,220.88. However, it does not appear that claimant's spouse is a United States national, and accordingly so much of the claim as is based on her interest must be and is denied.

The Commission concludes that claimant sustained a loss in the amount of \$1,610.44 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on January 29, 1967.


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.

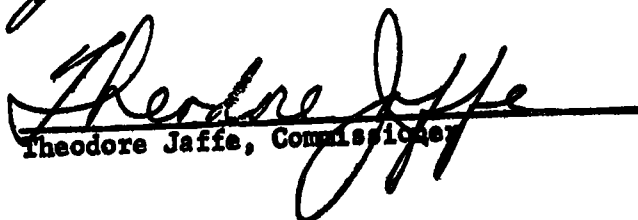
CERTIFICATION OF LOSS

The Commission certifies that RAFAEL A. RIVEROL 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 One Thousand Six Hundred Ten Dollars and Forty-Four Cents (\$1,610.44) with interest at 6% per annum from January 29, 1967 to the date of settlement.

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

DEC 2 1970

  
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, 32 Fed. Reg. 412-13 (1967).)