

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

IN THE MATTER OF THE CLAIM OF

EUGENE ZIELSDORF
MILDRED ZIELSDORF

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU-0985

Decision No. CU 5865

Counsel for claimants:

Robert E. Cook, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$82,477.73, was presented by EUGENE ZIELSDORF and MILDRED ZIELSDORF based upon the asserted ownership and loss of certain real and personal property in Cuba. 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.

Claim is asserted for the following losses:

Land	\$19,650.00
Buildings and Improvements	25,109.34
Personal property, household furnishings	13,718.38
Grapefruit, pineapple and coconut groves	<u>24,000.00</u>
	\$82,477.73

The record contains copies of purchase contracts, invoices, building plans, construction agreement, correspondence with suppliers, and photocopies of cancelled checks issued originally by claimant.

On the basis of the entire record, the Commission finds that claimants were the jointowners of the claimed property located on the Isle of Pines, Cuba. The first purchase of land occurred in 1948, and in 1959 and 1960 construction of claimants' home and other buildings and the purchase of furnishings and planting of fruit trees were carried out.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to claimants and that their interests in the claimed property were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989 and that claimants thereby sustained a loss of property within the meaning of Title V of the Act. (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.

As previously stated, the record contains photocopies of claimants' cancelled checks, copies of purchase contracts, building contracts, and correspondence with suppliers which establish that the values claimed are fair and reasonable. No depreciation is taken on the household furnishings since claimants did not occupy the premises, the property being taken before they had taken up residence in Cuba.

The Commission therefore concludes that claimants jointly sustained a loss in the amount of \$82,477.73 within the meaning of Title V of the Act as the result of the taking of their property by the Government of Cuba on December 6, 1961.

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 EUGENE ZIELSDORF suffered a loss, as a result of the 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 Forty-One Thousand Two Hundred Thirty-Eight Dollars and Eighty-Six Cents (\$41,238.86) with interest at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that MILDRED ZIELSDORF suffered a loss, as a result of the 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 Forty-One Thousand Two Hundred Thirty-Eight Dollars and Eighty-Seven Cents (\$41,238.87) with interest 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

SFP 30 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).)

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