

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

IN THE MATTER OF THE CLAIM OF

EDNA A. MATHER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1681

Decision No. CU 5862

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 EDNA A. MATHER for \$21,201.00 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.

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 her losses as follows:

1. Improved real property at No. 33815 Calle 27 at Tarara Beach in Guanabacoa;
2. Furnishings of claimant's residence and an automobile at the same address;
3. Account with the Banco Nacional de Cuba with a balance of 350.00 pesos;
4. Retirement pension due from the Caja de Retiro de Trabajadores de Plantas Electricas Gas y Agua (Retirement Fund of the Employees of Electric, Gas and Water Works).

Real and Personal Property

Based upon the evidence of record, the Commission finds that claimant's husband, Ernest James Mather, had record title to the real property known as land parcel No. 17 of lot No. 60 at Tarara Beach in Guanabacoa, Cuba purchased subsequent to marriage. The Commission further finds that pursuant to the Community Property law of Cuba, the claimant had a one-half ownership interest in the property in question, including the furnishings and personal effects associated therewith. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.) It should be noted that claimant's husband, the said Ernest James Mather, was a British subject at the time this claim arose and does not, therefore, meet the nationality requirements of the Act. (See Claim of Joseph Dallos Hollo, Claim No. CU-0101, 25 FCSC Semiann. Rep. 46 [July-Dec. 1966].)

The Commission finds that the real property in question consisted of a parcel of land of 450 square meters improved by a two-story dwelling house built in or about 1955, having six rooms, bath and storage facilities. The Commission further finds that the subject personal property consisted of household furnishings, personal effects, a 1955 Plymouth automobile (Belvedere model), and a savings account.

The record shows that claimant left Cuba in October 1962, re-establishing residence in the United States. On December 6, 1961 the Cuban Government published its Law 989 which effectively confiscated all the assets, personal property, real estate, rights, shares, stocks, bonds and securities of persons who left Cuba. The Commission therefore finds, in the absence of evidence to the contrary, that subject real and personal property except as otherwise noted below, was taken on October 17, 1962 (the date claimant departed from Cuba) pursuant to Law 989 (supra). (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec, 1966]; and Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

On the basis of the entire record, including claimant's description, affidavits, information received from abroad and evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that subject properties had the following values:

Land (450 square meters)	\$ 3,128.00
Residence (two floors)	15,000.00
Furnishings and personal effects (appropriately depreciated)	3,000.00
Automobile (1955 Plymouth) (per National Association of Automobile Dealers)	400.00
Savings Account No. 743-309-0	<u>350.00</u>
Total	\$21,878.00

The record discloses, however, that subject real property was encumbered by a mortgage in the amount of \$8,000.00 as evidenced by deed No. 725 executed on August 26, 1954. It is said that this mortgage was liquidated but no evidence has been submitted to establish such liquidation. Accordingly, this must be deducted to find claimant's equity in subject real property. The Commission therefore concludes that claimant suffered a loss within the meaning of Title V of the Act, in the amount of \$6,939.00 representing her 50% interest in subject property.

Pension

A portion of this claim asserted in the amount of \$19,424.00 is based on the loss of an interest in a retirement pension due from the Electric Retirement Fund (Caja de Retiro de Trabajadores de Plantas Electricas, Gas y Agua). Claimant contends that she is the owner of a one-half interest in the amount of the monthly payments owing since October 1962, the date of her departure from Cuba. The record establishes and the Commission so finds that the beneficiary of said pension fund is claimant's husband, a former employee in the Cuban electrical industry and a nonnational of the United States on the asserted date of loss. Any rights due and owing to claimant in said pension fund would relate to rights of survivorship. (See Claim of Tisdale Wyatt Bibb, Jr., Final Decision, Claim No. CU-3720.) The record indicates that claimant's husband is living.

The Commission finds with respect to this portion of the claim, that claimant has failed to establish that she has an interest in a pension (see Claim of Lawrence A. Soper, Jr., et ux., Claim No. CU-0054) taken by the Government of Cuba. Accordingly, this portion of the claim is hereby denied.

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 EDNA A. MATHER 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 Nine Hundred Thirty-nine Dollars (\$6,939.00) with interest thereon at 6% per annum from October 17, 1962 to the date of settlement.

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

SEP 23 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).)