

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

IN THE MATTER OF THE CLAIM OF

JAMES D. BAKER
SIBYL E. BAKER

Claim No. CU - 0743

Decision No. CU - 4640

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Rufus King, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$78,915.00, was presented by JAMES D. BAKER and SIBYL E. BAKER and is based upon the asserted loss of improved real property and personal property. 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.

Real Property

Claimants state that they lost an investment in improved and unimproved real property valued at \$71,790.00. They submitted, among other things, a copy of deed No. 497 dated September 13, 1951; statement of Jorge T. Mantilla, architect, dated January 12, 1968; claimants' affidavit, and two pictures of the outside of the house. Under Cuban Community Law by virtue of the legal partnership existing between the claimants each owned a one-half interest in everything acquired during coverture.

Based upon the entire record, the Commission finds that the claimants each owned a one-half interest in a house situated on a lot measuring 2,679 square meters at Calle 21 No. 19008, Alturas Del Country Club, Havana.

Claimants state that they left Cuba in January 1961 and the passport submitted by JAMES D. BAKER indicates that they left Cuba on January 5, 1961.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which effectively confiscated all assets, personal property and real estate of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (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.

In arriving at the value of the improved real property consideration was given to all of the evidence of record, including claimants' statement, statement of the architect, evidence available to the Commission concerning property similarly located, and pictures of the property. The Commission finds, in the absence of evidence to the contrary, that the value of the house and lot at the time of loss was \$71,790.00. Accordingly, the Commission concludes that the claimants suffered a loss in the amount of \$71,790.00 within the meaning of Title V of the Act, as the result of the taking of the aforementioned property by the Government of Cuba on December 6, 1961.

Personalty

Claimants also contend that they lost certain household furnishings, including silverware, and a 1951 Chevrolet. Claimants have submitted a list of the household furnishings purchased with approximate prices paid for each item; and their statement concerning the automobile.

On the basis of the entire record the Commission finds that claimants each owned a one-half interest in the household furnishings and the car described above which were also taken by the Government of Cuba on December 6, 1961, pursuant to Law 989, supra.

The Commission further finds that the value of the household furnishings, after deducting depreciation of 5% per year from the dates of purchase but not exceeding 50% of the cost, except with regard to the silverware, which was not depreciated, was \$4,828.40; and the 1951 Chevrolet after depreciation in accordance with the National Automobile Dealers Used Car Guide had an aggregate value of \$275.00. The Commission therefore concludes that claimants suffered an additional loss in the amount of \$5,103.40 within the meaning of Title V of the Act.

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.

CERTIFICATIONS OF LOSS

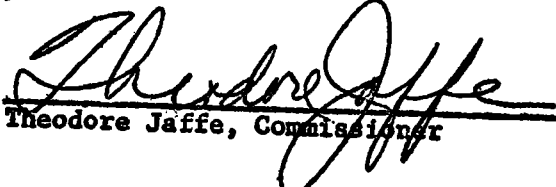
The Commission certifies that JAMES D. BAKER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Eight Thousand Four Hundred Forty-Six Dollars and Seventy Cents (\$38,446.70) with interest at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that SIBYL E. BAKER 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 Thirty-Eight Thousand Four Hundred Forty-Six Dollars and Seventy Cents (\$38,446.70) 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

18 MAR 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).)