

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

IN THE MATTER OF THE CLAIM OF

GEORGINA M. CARRIL

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1278

Decision No. CU 3910

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 GEORGINA M. CARRIL in the amended amount of \$44,705.05, based upon the asserted ownership and loss of a business enterprise known as Carril & Cia., S.L., as well as real and personal property, located at Havana, Cuba, and farming property at or near Candelario, Pinar del Rio, Cuba. Claimant, GEORGINA M. CARRIL, 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.

The instant claim, as amended by affidavit of claimant and her husband, Jose Carril, executed on May 20, 1968, includes the following properties and claimed amounts:

<u>Property</u>	<u>Claimed Amount</u>
Service station, Carril y Cia., S.L.	\$ 23,610.00
Lot in Altabana	4,123.00
Down payment on house and lot in Altabana	3,500.00
Payments on property in Altabana	6,912.00
Payments on "Consuelo", at Kilometer 76, Carretera Central e/Artemisa y Candelario	2,011.00
Farm house	212.00
Fencing	170.60
Personal Property	<u>4,166.45</u>
GRAND TOTAL	\$ 44,705.05

The Commission finds that the evidence of record herein, including documentation from Cuba, establishes that claimant and her husband, Jose Carril, a national of Cuba, were the joint owners of the aforesaid properties under the provisions of the Community Property Laws of Cuba; that the property included two lots in Havana, improved by a dwelling house at Calle 9, between A and B, #114, Lot 21, block 3-A of Reparto Altahabana; a service station, with equipment, doing business as Carril Y Cia., S.L., located at San Lazaro 861 e/Oquendo y Soledad, which was constructed on land not owned by the claimant or her husband; farming property with improvements known as "Consuelo", located in Pinar del Rio; and certain personal property in Havana, Cuba.

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

The Commission finds, in the absence of evidence to the contrary, that the subject properties included in this claim, with the exception of the aforesaid business enterprise, were 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 evidence of record discloses that the business enterprise known as Carril y Cia., S.L. was intervened on June 13, 1963 by the Government of Cuba; that such action was taken pursuant to Resolution 5566 of July 31, 1961, and such taking was duly published in the Official Gazette on June 13, 1963.

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 claimant has submitted photographs and a full description of the real and personal property, as well as the service station and facilities therein, and claimant has also submitted receipts for purchases made in connection with these properties. Further, claimant has submitted documentation from Cuba disclosing the purchase of the property and the amounts paid, with data pertaining to amounts due on mortgages outstanding. Additionally, the Commission has considered other evidence available to it as to the value of land in the Havana area and the value of the type of construction included in the claim; as well as values of personal property.

Based upon the entire record, the Commission finds that the fair and reasonable value of the subject real and personal property at the time of loss was as follows:

<u>Property</u>	<u>Value at Time of Loss</u>
Carril y Cia., S.L.	\$ 16,500.00
Lot in Altabana	4,123.00
House and lot, Altabana	10,412.00
Farming property, house and fence	2,393.60
Personal property	<u>3,124.85</u>
GRAND TOTAL	\$ 36,553.45

The husband of claimant, Jose Carril, owner of a one-half interest in the aforesaid real and personal property, including the business enterprise, in accordance with the Community Property Laws of Cuba, was not a national of the United States at the time of loss, or when this claim was filed. In order for the Commission to favorably consider a claim filed under Title V of the Act, it must be established that (1) the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization has been continuously owned thereafter in whole or in part by a national of the United States to the date of filing claim with the Commission. (See the Claim of Joseph Dallos Hollo, Claim No. CU-0101, 25 FCSC Semi-ann. Rep. 46 [July-Dec. 1966].)

Thus, while Jose Carril has not asserted a claim herein for loss of his one-half interest in the subject properties, the instant claim was based upon the total value of all property included in the claim. Accordingly, the claim asserted herein for loss of properties owned by Jose Carril, to the extent of a one-half interest, is hereby denied.

In conclusion, the Commission finds that claimant, GEORGINA M. CARRIL, sustained a loss in the amount of \$18,276.73, within the meaning of Title V of the Act.

The Commission has decided that in certification 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 the Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case, it is so ordered, as follows:

<u>From</u>	<u>On</u>
December 6, 1961	\$10,026.73
June 13, 1963	<u>\$ 8,250.00</u>
	\$18,276.73

CERTIFICATION OF LOSS

The Commission certifies that GEORGINA M. CARRIL 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 Two Hundred Seventy-Six Dollars and Seventy-Three Cents (\$18,276.73) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

SEP 24 1969

*Leonard v. B. Sutton*  
Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*Sidney Goldberg*  
Sidney Goldberg, 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].)