

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

IN THE MATTER OF THE CLAIM OF

RITA MARIA FRANCO

Claim No. CU-1316

Decision No. CU-926

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered January 10, 1968;  
no hearing requested.

Hearing on the record held September 15, 1971.

FINAL DECISION

By Proposed Decision entered January 10, 1968, the Commission denied this claim for lack of evidence. Since that time, claimant has submitted some evidence in support. Claimant, a national of the United States since birth, was married on August 9, 1961 to Jose Maria Franco, a non-national of the United States, who was divorced at that time. Claimant left Cuba on December 28, 1966.

This claim, in the amount of \$52,558.50 was based on a one-half interest in:

1) asserted participation in improved realty 210 Avenue 19, Marianao	\$5,000.00
2) Improvements to the above	4,000.00
3) Service station	10,000.00
4) Plot of land, Boulevard Biltmore	3,500.00
5) 1955 Dodge automobile	1,000.00
6) Fargo truck	1,500.00
7) Bank accounts	8,103.68
8) Personalty at 210 Avenue, 19	9,454.82
9) Sole ownership of Cia. Territorial Cajio S.A.	10,000.00

The evidence of record includes an affidavit executed on December 28, 1965, in which claimant describes her properties; receipts; Cuban Government documents; a certificate concerning the company; and a report from abroad.

The improved realty at 210 Avenue 19 is recorded in the name of Jose Franco, married to Georgia Lopez Ona Ebra, apparently the first wife of claimant's spouse. It further appears that claimant is asserting demand for \$5,000, the amount she assertedly paid on the mortgage of record. The payment is not supported by any evidence of record, but in any event, this would not afford claimant an ownership interest in the property, subject to taking by the Government of Cuba. Moreover, it is not established that any improvements were made to the property subsequent to claimant's marriage, in which she would have an interest under the community property law of Cuba.

With respect to a plot of land on Boulevard Biltmore, claimant did not utilize the requests for assistance in obtaining evidence which were offered, and thus the Commission has been unable to attempt to obtain evidence of ownership for her. Neither did claimant respond to a question as to when the property was purchased, or by whom.

As to the vehicles, claimant stated in her letter of December 15, 1968 that the 1955 Dodge was purchased on December 18, 1958, but did not show by whom; but in her letter of April 21, 1971 she states that it was purchased prior to marriage and may be dropped from the claim. The 1937 Fargo truck she stated in the letter of April 21, 1971 was purchased during the marriage, but in her letter of December 15, 1958, she stated it was purchased in February, 1961. It was taken from Jose Franco in 1966. Claimant has not established that she had an interest in these vehicles.

Claimant has stated that the service station was purchased in 1962, and had a value of \$10,000. It was taken from her spouse in 1966. The record does not establish by probative evidence that claimant had an interest in this property.

The record shows that Cia. Territorial Cajio, S.A., was organized in 1955, with a capital of \$10,000 and that claimant was the sole stockholder thereof. She stated that it was organized to buy and sell property, and further, that when she left Cuba its value was \$10,000 and a piece of property in Matanzas province. However, although she may have invested \$10,000 in this property, the Commission cannot assume that it continued to have this value in 1966; moreover,

the Commission cannot ascribe a value to the property in Matanzas without having been given data as to its ownership, size and value.

For all of the foregoing reasons, claim on the above-described items remains denied.

The record does reflect that three bank accounts existed which claimant states were opened after marriage. These total \$8,103.68. The Commission finds that claimant's one-half interest in these accounts was taken by the Government of Cuba on December 28, 1966, pursuant to its Law 989 of December 6, 1961, which provided for confiscation of properties of persons who left Cuba.

Further, the Commission finds that claimant had a one-half interest in personal property maintained at the residence at 210 Avenue 19, and that similarly as above, this was taken on December 28, 1966.

The Commission has examined claimant's listing of the properties, values existing as of the time of listing, December 28, 1965, and finds that after appropriate depreciation for the succeeding year, the value of claimant's one-half interest was \$4,254.67.

Accordingly, the Commission concludes that claimant suffered an aggregate loss in the amount of \$8,306.51 within the scope of Title V of the Act as a result of the taking of her property by the Government of Cuba on December 28, 1966.

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.

It may noted, however, that upon the receipt of evidence warranting a change in the portion of the decision denying claim for certain items, the Commission will reopen the matter, provided, however, that such evidence is received by May 1, 1972, affording time for consideration prior to the close of the program on June 30, 1972.


Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision, as amended herein, is affirmed.

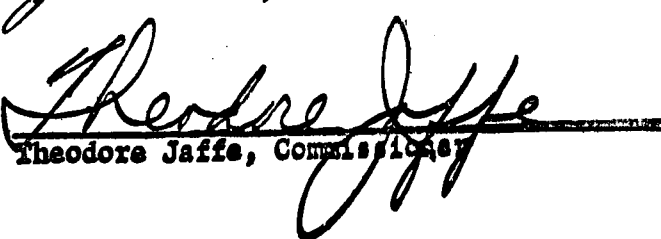
CERTIFICATION OF LOSS

The Commission certifies that RITA MARIA FRANCO 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 Eight Thousand Three Hundred Six Dollars and Fifty-One Cents (\$8,306.51) with interest thereon at 6% per annum from December 28, 1966 to the date of settlement.

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

SEP 15 1971

  
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.

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

IN THE MATTER OF THE CLAIM OF

RITA MARIA FRANCO

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU- 1316

Decision No. CU 323

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 \$52,000.00, was presented by RITA MARIA FRANCO and is based upon the asserted loss of improved and unimproved real property, a business, household furnishings, jewelry, bank deposits and stock shares. Claimant has been a national of the United States since her 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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

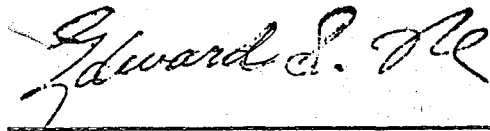
Claimant asserts the ownership of improved and unimproved real property, a business, household furnishings, jewelry and bank deposits. However, other than a copy of her birth certificate and photocopies of receipts for items deposited in Cuba, claimant has submitted no documentary evidence in support of her claim. By Commission letter of June 20, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence has been received to date.

On October 23, 1967, claimant was invited to submit any evidence available to her within 45 days from that date, and she was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

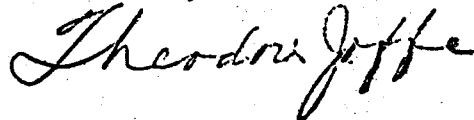
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, appropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

10 JAN 1968

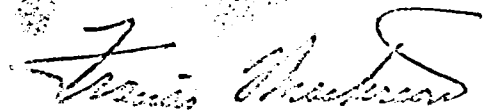


Edward D. Re, Chairman



Theodore Jaffe, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on \_\_\_\_\_



Clerk of the Commission

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).)