

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

IN THE MATTER OF THE CLAIM OF

OLIVE E. CORTIS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1343

Decision No. CU **4185**

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, for an unspecified amount, was presented by OLIVE E. CORTIS, a national of the United States since her birth on February 19, 1894, and is based upon the asserted loss of property in Havana, Cuba, as follows:

- (1) Stock interest in the corporation Minimax Super-Mercados, S.A.;
- (2) Furnishings of an apartment in Vedado, United States currency, and a bank account;
- (3) Pension from the Sugar Retirement Fund.

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.

Minimax Super-Mercados, S. A.

A portion of the claim is based upon 200 shares of stock in Minimax Super-Mercados, S. A.

In our decision entitled the Claim of Libby Holman Reynolds (Claim No. CU-1384 which we incorporate herein by reference), we held that Minimax Super-Mercados, S. A. was intervened by the Government of Cuba on September 1, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share as \$1.0023.

On the basis of the original stock certificates and other evidence of record, the Commission finds that this claimant comes within the terms of the Reynolds decision; that she was an American national at the requisite times; that she has been the owner of 200 shares of stock in Minimax Super-Mercados, S. A. since prior to September 1, 1960; and that she suffered a loss in the amount of \$200.46 within the meaning of Title V of the Act.

Personal Property, Including United States Currency and Bank Account

A further portion of the claim is based upon the furnishings of claimant's apartment in Vedado, Cuba. Based upon the entire record including photographs of the apartment in question and of its furnishings, the Commission finds that claimant owned personal property, consisting of the furniture and furnishings of a one bedroom apartment in Vedado, Cuba, which also included linen, clothing, dishes, china and flatware; \$80.00 in United States currency and an account with the Vedado Branch of the First National

City Bank of New York having a balance of 95.00 pesos, the peso being on a par with the United States dollar.

On December 6, 1961, the Government of Cuba 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 left that country. The Commission has held that this included bank accounts. (See Claim of Floyd W. Auld, Claim No. CU-0020.)

In view of the fact that claimant left Cuba in August 1960, the Commission finds that the subject personal property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. The Commission also finds that on December 6, 1961, the subject property had a value as follows:

Furnishings of the apartment	\$ 800.00
United States currency	80.00
Bank account	<u>95.00</u>
	\$ 975.00

Pension

It is asserted by claimant that she was entitled to a pension of 72.14 pesos per month from the Sugar Retirement Fund in Havana, Cuba. It is further asserted that as of September 1, 1960, no amounts on account of such pension right were received by claimant.

On the basis of evidence submitted by claimant, the Commission finds that the Sugar Retirement Fund in Havana, Cuba, awarded and paid to claimant at least since 1958 a retirement pension in the amount of 72.14 pesos per month.

The Sugar Retirement Fund was established by Law No. 20 of March 27, 1941, and amended by Law No. 4 of November, 1948, Law-Decrees No. 586 of December 17, 1952, No. 711 of February 27, 1953 and No. 1239 of January 1, 1954, Decree No. 3394 of September 5, 1949, and Law-Decree No. 1959 of January 25, 1955.

CU-1343

On May 29, 1959, Law No. 351 was enacted which provided for the establishment of the Banco de Seguros Sociales de Cuba (Social Insurance Bank of Cuba) as an agency of the Government of Cuba to supervise and administer social insurance, as well as to direct the policy concerning all social security matters. The law also provided for the transfer of the assets and liabilities of all pension funds to the Banco de Seguros Sociales de Cuba. Information also shows that retired employees received their monthly retirement benefits (pensions) from the Banco de Seguros Sociales de Cuba up to the time of their departure from Cuba. After their departure from Cuba the benefits remained unpaid. On the basis of evidence of record the Commission finds that from September 1, 1960, and thereafter the Government of Cuba, refused to transfer any pension benefits to claimant, who was then residing in the United States.

In our decision entitled the Claim of A. M. Joy de Pardo (Claim No. CU-1906 which we incorporate herein by reference), we held that the refusal of the Government of Cuba to transfer retirement benefits to claimant constituted a taking of her property within the purview of Section 503(a) of the Act. Therefore, the Commission finds that claimant's claim for the loss based upon such taking in the instant claim arose on September 1, 1960.

The Commission has adopted as a basis for the valuation of annuities the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031-7.) According to that method of valuation, the value of the annuity for a person of the age of 67 amounts to 8.8464 times the yearly sum of the annuity. Since on September 1, 1960, claimant was 67 years of age, the value of her discounted annuity on that date amounted to \$865.68 (the peso being on a par with the United States dollar) times 8.8464 or \$7,658.15.

CU-1343

In view of the foregoing, the Commission finds that claimant sustained losses within the purview of Title V of the Act in amounts as follows:

Stock interest in Minimax Super-Mercados, S. A.	\$ 200.46
Personal property, currency, bank account	975.00
Pension	<u>7,658.15</u>
	\$ 8,833.61

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, as follows:

<u>FROM</u>	<u>ON</u>
September 1, 1960	\$ 7,858.61
December 6, 1961	<u>975.00</u>
	\$ 8,833.61

CERTIFICATION OF LOSS

The Commission certifies that OLIVE E. CORTIS sustained 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 Eight Hundred Thirty-three Dollars and Sixty-one Cents (\$8,833.61) 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

NOV 14 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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).)

CU-1343