

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

IN THE MATTER OF THE CLAIM OF

MANUEL AYALA Y RIERA, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2064

Decision No. CU **5890**

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 MANUEL AYALA Y RIERA, JR. for \$16,200.00 based upon the asserted ownership and loss of certain personal property in Cuba and a debt owed by a nationalized enterprise. 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 his losses as follows:

3 automobiles	\$ 6,000.00
Household furnishings, appliances and cash	5,000.00
Debt owed by a nationalized enterprise	<u>5,200.00</u>
	\$16,200.00

Based upon the entire record, including an affidavit by claimant and his wife prepared on February 2, 1966 in Cuba and setting forth the items owned by them in community, documents evidencing their ownership of the 3 automobiles and many of the other items of personalty, and an affidavit of the former president of a Cuban corporation stating that claimant had invested \$5,200.00 in his enterprise, the Commission finds that claimant and, pursuant to the Community Property Law of Cuba, his wife, Rosa Esther Roman Lopez, a Cuban national, each owned a one-half interest in the personal property subject of this claim including the debt owed by a nationalized enterprise.

Based on the evidence of record including a copy of an Act of the Minister of Education, the Commission finds that one of the automobiles subject of this claim, a 1957 Chevrolet, was taken by the Government of Cuba on June 1, 1961.

The Commission further finds based upon the evidence including an affidavit of the former president of a Cuban corporation, Comercial Aracuba, S.A., that the Cuban corporation owed claimant \$5,200.00. The record shows that Aracuba was taken by the Government of Cuba on November 1, 1961.

Accordingly the Commission concludes that claimant suffered a loss of his one-half interest therein in the amount of \$2,600.00 within the meaning of Title V of the Act as a result of the taking of Comercial Aracuba, S.A. on November 1, 1961.

On December 6, 1961, the Cuban Government published its Law 989 which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The record shows that claimant left Cuba on December 29, 1966, and claimant asserts that the automobile and personal property subject of this claim were taken by the Government of Cuba in December 1966. Based on the evidence of record, the Commission finds with regard to the remaining portion of this claim based on the loss of the 2 other automobiles, a Buick and a Fiat, and the household furnishings and appliances, that these were taken by the Government of Cuba on December 29, 1966 pursuant to the provisions of Law 989.

The record includes in support of the claimed values, a list of the household furnishings and appliances and the 3 automobiles including their estimated values, set forth in the aforementioned affidavit of claimant and his wife; titles to a 1957 Chevrolet, a 1954 Buick and a 1959 Fiat; a copy of the check in the sum of \$1,700.00 dated May 26, 1961 which claimant states represents the purchase price of the Chevrolet; and receipts and other documents which reflect the date of purchase and purchase price of the Buick and many of the other items of personalty.

On the basis of the evidence of record, the Commission finds that on the date of loss the household furnishings and appliances after appropriate depreciation had a total value of \$2,857.00, that the 1957 Chevrolet had a value of \$1,700.00, and that the 1954 Buick and 1959 Fiat had a total value of \$1,300.00.

Inasmuch as claimant's wife, a Cuban national, owned a one-half interest in the property, as stated above, so much of this claim as is based on her interest is hereby denied.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$1,428.50 for his interest in the household furnishings and appliances, \$1,500.00 for his interest in the 3 automobiles, and as concluded above, \$2,600.00 for his interest in the debt of the Cuban corporation; or a total of \$5,528.50 within the meaning of Title V of the Act.

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 as follows:

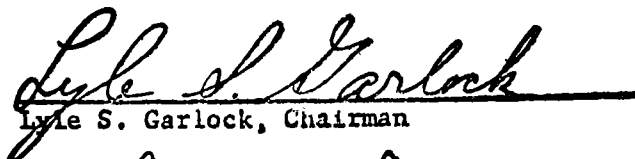
<u>FROM</u>	<u>ON</u>
June 1, 1961	\$ 850.00
November 1, 1961	2,600.00
December 29, 1966	<u>2,078.50</u>
	\$5,528.50

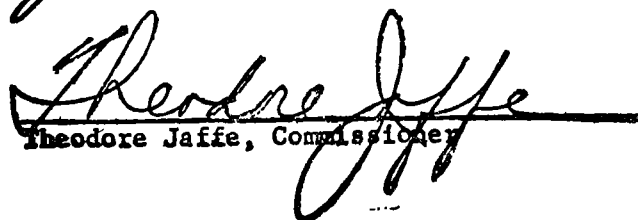
CERTIFICATION OF LOSS

The Commission certifies that MANUEL AYALA Y RIERA, JR. 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 Five Thousand Five Hundred Twenty-eight Dollars and Fifty Cents (\$5,528.50) 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

OCT 14 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. 31.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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