

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

IN THE MATTER OF THE CLAIM OF

AGATHA C. CALAS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2068  
Claim No. CU-3950

Decision No. CU

4232

Counsel for claimant:

Robert Polachek, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, are based upon the asserted ownership and loss of personal property and stock interests in Cuba. CU-2068 was presented by claimant in the amount of \$48,507.20 and CU-3950 was opened by the Commission in her behalf. 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 her loss as follows:

|                           |                  |
|---------------------------|------------------|
| Furniture and furnishings | \$30,437.20      |
| Jewelry                   | 5,270.00         |
| Clothing                  | 1,300.00         |
| 1951 Pontiac              | 1,500.00         |
| Investment in Calas & Co. | <u>10,000.00</u> |
|                           | \$48,507.20      |

Based upon the entire record, the Commission finds that claimant did own certain furniture and furnishings and other personalty in 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 left the country. Claimant left Cuba on December 28, 1966.

The Commission finds that the subject personal property was taken by the Government of Cuba on December 28, 1966 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.

The record includes, in support of the claimed values, a notarized statement reflecting that the furniture and furnishings had been appraised

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by a furniture dealer in the amount of \$30,437.20 as of October 11, 1965. It appears further that all but \$3,125.00 worth of the furniture was acquired by claimant prior to her marriage to a Cuban national in 1952, and the balance was acquired by them thereafter. Also, the jewelry was acquired between 1944 and 1959. The record contains a listing of all the items involved.

Based on the entire record, the Commission finds that claimant's interest in the personal property after appropriate depreciation, had a value of \$33,885.35. Accordingly, the Commission concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of her personal property by the Government of Cuba on December 28, 1966.

It is also stated by claimant in her affidavit of October 29, 1965 that claimant and her husband held a 50% interest in the Limited Liability Co. called Calas y Compania, Sociedad Limitada, organized in Havana, in 1948. The record is devoid, however, of any evidence as to the ownership and value of the asserted interest in the company, if any, when claimant left Cuba, such as balance sheets or other financial statements.

Under these circumstances, any finding as to ownership and value would be conjectural. The Commission is therefore constrained to and does hereby deny this item of claim.

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.

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CERTIFICATION OF LOSS

The Commission certifies that AGATHA C. CALAS 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-three Thousand Eight Hundred Eighty-five Dollars and Thirty-five Cents (\$33,885.35) with interest at 6% per annum from December 28, 1966 to the date of settlement.

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

NOV 26 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).)

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