

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

IN THE MATTER OF THE CLAIM OF

ELIAS A. MARCUS  
MARTHA L. MARCUS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 2093

Decision No. CU

944  
800

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 \$13,930.00, was presented by ELIAS A. and MARTHA L. MARCUS and is based upon the asserted loss of personal property in Cuba. Claimants have been nationals 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.

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.

Claimants assert that they owned personal property consisting of furniture and personal effects located in their apartment at Calle 80 #312, Entre 5 y 3, Miramar, Marianao, Havana, Cuba, which was lost as a result of their respective departures from Cuba in October 1960 and July 1960.

The record contains a copy of an itemized list of claimants' personal property, said list having been presented to the American Embassy in Havana on August 9, 1960. The record also contains a revised copy of the same list, submitted by claimants at the time of presentation of this claim the revisions consisting of deletions of items which had been sold in Cuba prior to Mr. Marcus' departure, and of items which claimants were able to get out of Cuba, and the additions consisting of items which claimants assert "had been inadvertently overlooked in the rush of preparing this inventory prior to departure from Cuba." The record further contains a letter to the Commission, dated April 20, 1967, from one Claude Brandon, in which Mr. Brandon states that Mrs. Marcus left Cuba in July, 1960; that Mr. Marcus left Cuba in October, 1960; that Mr. Marcus gave him the keys to claimants' apartment for the purpose of enabling him to check on the apartment; and that the articles listed on claimants' inventory were, to the best of his knowledge, in the apartment after claimants left Cuba.

Based upon the evidence of record, the Commission finds that claimants ELIAS A. MARCUS and MARTHA L. MARCUS were the owners, in equal parts, of certain personal property including household and personal effects located in an apartment at Calle 80 #312 Miramar, Marianao, Havana, Cuba.

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

As the record shows, Mrs. Marcus left Cuba in July, 1960 and her husband left Cuba in October, 1960, claimants having resided in the United States since that time. Accordingly, the Commission finds, in the absence of evidence to the contrary, that claimants' personal property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Claimants assert that the value of their personal property was \$13,930.00. The original inventory of their personal property, as filed with the American Embassy in Havana on August 9, 1960, shows a total claimed value of \$19,705.00. The revised list shows deductions for items sold in Cuba or removed from Cuba totalling \$7,560.00, and additions for items inadvertently overlooked totalling \$1,785.00, bring the revised total to \$13,930.00.

The record contains the affidavit of one Norma Lemberg, in which the affiant states that she was a neighbor of claimants in Cuba; that she has known Mrs. Marcus for 22 years; and that, although she is unable to certify as to the exact value of claimants' belongings, she can state that Mrs. Marcus, during the entire time she lived in Cuba, maintained "a completely and well-furnished home with all the necessities for her family and two children," and that Mrs. Marcus "was financially able to afford the niceties of living and her home reflected this." The record also contains a letter from claimants to the Commission, dated November 27, 1967, in which claimants state that their home in Cuba was a large 4-bedroom apartment; that Mr. Marcus was a manufacturer's representative in Cuba; that they "enjoyed the comforts of good living" in Cuba; and that the values which

attributed to their personal property are depreciated values in some cases, estimated values in other cases, and in the case of the wooden furniture, approximate original cost, although as to these latter the values are understated because of the furniture's having been custom-made and therefore irreplaceable.

After consideration of the values ascribed to each item, the Commission finds that the values of claimants' personal property was \$9,720.00. Accordingly, it is concluded that claimants suffered a loss in the amount of \$9,720.00 within the meaning of Title V of the Act as a result of the taking of their personal property by the Government of Cuba.

The Commission has decided that in the 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644)

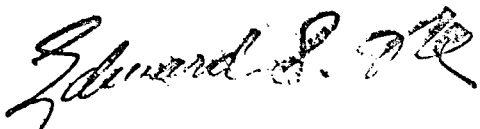
Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ELIAS MARCUS 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 Four Thousand Eight Hundred Sixty Dollars (\$4,860.00) with interest thereon at 6% per annum from the date of loss to the date of settlement; and

the Commission certifies that MARTHA L. MARCUS 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 Four Thousand Eight Hundred Sixty Dollars (\$4,860.00) with interest thereon at 6% per annum from the date of loss to the date of settlement.

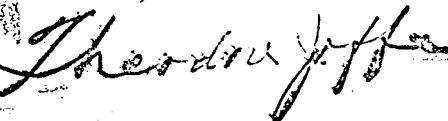
Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission



Edward D. Re, Chairman

**JAN 17 1983**

CERTIFICATION



Theodore Jaffe, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered on the file

FEB 20 1983

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).)