

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

IN THE MATTER OF THE CLAIM OF

GEORGE F. HAMILL
and
HAZEL M. HAMILL

Claim No. CU-2574

Decision No. CU
5758

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Mershon, Sawyer, Johnston,
Dunwody & Cole
By Robert E. Muraro, Esq.

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 GEORGE F. HAMILL and HAZEL M. HAMILL for \$50,883.50 based upon the asserted ownership and loss of certain real and 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.

Claimants describe their loss as follows:

Loss of about 490 acres of land on Isle of Pines, Cuba	\$50,000.00
Improvements on this land	525.00
Loss of bank account in Cuban bank	<u>358.50</u>
	\$50,883.50

Based upon the entire record, including the deed to the real property which discloses that claimants purchased the property on December 11, 1957, a report from sources abroad, a copy of an affidavit by the sellers, and a copy of a bank statement showing a balance of 358.50 pesos on deposit with The Banco Continental Cubano, Cuba on August 31, 1959, the Commission finds that claimants owned the real property and the bank account in question, and that the peso was on a par with the United States dollar.

Claimants indicate that their real property and bank account were taken by the Government of Cuba in 1960 pursuant to the provisions of Cuban Law 851 of July 6, 1960 and Law 890 of October 13, 1960. Based on the evidence of record and in the absence of evidence to the contrary, the Commission finds in this instance that claimants' above-described realty and bank account were taken by the Government of Cuba on July 7, 1960 pursuant to publication of Cuban Law 851.

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 relating to claimants' real property, photocopies of four cancelled checks in the aggregate amount of \$50,000.00, the purchase price of the property, and receipts in the amounts of \$450.00 and \$75.00 for the demarcation of the real property and repair of a road on the property, respectively, and copies of an audit of the United States Internal Revenue Service which discloses that an income tax deduction in the amount of \$50,884.00 was allowed in 1960 for the loss claimed herein.

Based on the entire record, the Commission finds that claimants' real property had a value of \$50,525.00. Accordingly, the Commission concludes that claimants suffered a loss in the amount of \$50,525.00 and \$358.50 within the meaning of Title V of the Act, as the result of the taking of their property by the Government of Cuba on July 7, 1960.

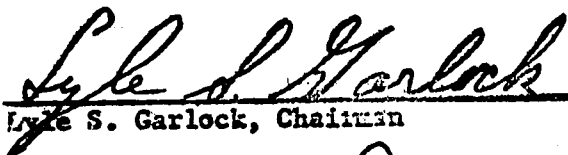
The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that GEORGE F. HAMILL and HAZEL M. HAMILL jointly suffered a loss, as a result of the actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, the amount of Fifty Thousand Eight Hundred Eighty-three Dollars and Fifty Cents (\$50,883.50) with interest at 6% per annum from July 7, 1960 to the date of settlement.

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

9 SEP 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. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)