

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

**IN THE MATTER OF THE CLAIM OF**

MARGARITA C. GONZALEZ GUERRA

**Under the International Claims Settlement  
Act of 1949, as amended**

**Claim No. CU -3818**

**Decision No. CU 4690**

Counsel for claimant:

Eduardo F. Lopez, Esq.

ORDER AND PROPOSED DECISION

This claim, opened by the Commission on behalf of MARGARITA C. GONZALEZ GUERRA, a national of the United States by birth, was dismissed on September 4, 1968. Since that time claimant has submitted evidence in support. Accordingly, it is

ORDERED that the Order of Dismissal be set aside and this Proposed Decision will issue.

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 asserts losses as follows:

- |   |             |
|---|-------------|
| 1) Improved realty in Estela Road,<br>Arroyo Naranjo        | \$ 1,900.00 |
| 2) Improved realty at 19 Marques<br>de la Torre St., Havana | 6,000.00    |
| 3) Improved realty in Vibora Heights                        | 3,280.00    |
| 4) Personalty   | 400.00      |

On the basis of the record, including reports from abroad, and claimant's affidavits, the Commission finds that claimant owned the above-described real properties, and certain personalty.

Claimant has asserted that the real properties were taken in October, 1960, pursuant to the Urban Reform Law.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). Moreover, Article 30 provided for the cancellation of mortgages. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who did not have the status of legal residents were excluded from the rights and benefits conferred by this law.

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

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in Cuba was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

In the absence of evidence to the contrary, the Commission finds that claimant's personal property was taken by the Government of Cuba on December 10, 1966 pursuant to the provisions of Law 989 even though claimant may have remained in possession for a while thereafter. (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.

On the basis of evidence of record including the reports from abroad, descriptions of the improvements, and evidence as to the values of similar properties in Cuba, and an itemized list of the personalty, the Commission finds that the claimant's properties had the following values on the dates of loss:

1) Estela Road		\$ 1,900.00
2) 19 Marques de la Torre	\$6,000.00	
Less Mortgage	<u>2,200.00</u>	
Equity		3,800.00
3) Vibora Heights		3,280.00
4) Personalty		<u>400.00</u>
		\$ 9,380.00

Accordingly, the Commission concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act.

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>
October 14, 1960	\$ 8,980.00
December 10, 1966	<u>400.00</u>
	\$ 9,380.00

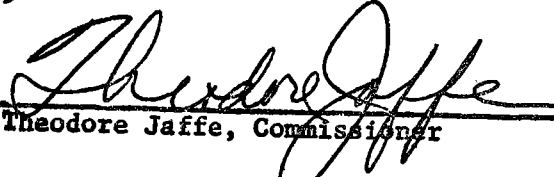
CERTIFICATION OF LOSS

The Commission certifies that MARGARITA C. GONZALEZ GUERRA 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 Nine Thousand Three Hundred Eighty Dollars (\$9,380.00) 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

1 APR 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
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).)