

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

IN THE MATTER OF THE CLAIM OF

AMELIA GEORGE DABUL

Claim No. CU-8388

Decision No. CU-6169

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on April 21, 1971.
No hearing requested.

Hearing on the record held on September 15, 1971.

FINAL DECISION

Under date of April 21, 1971, the Commission issued its Proposed Decision denying this claim for lack of proof. Subsequently, new evidence was submitted in support of this claim.

Upon consideration of the new evidence in light of the entire record, the Commission now makes the following findings:

1. The Commission finds that claimant and her husband, a nonnational of the United States, each owned a 1/2 interest in certain real and personal property in Cuba pursuant to the community property laws of Cuba. (See Claim of Robert L. Cheaney, et ux, Claim No. CU-0915.)

2. The Commission finds that said real and personal property was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Wallace Tabor, et ux, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

3. On the basis of a copy of a letter of February 25, 1969 from the Royal Bank of Canada, Montreal, Canada, setting forth the assets and liabilities of claimant's husband as of May 22, 1959, the Commission finds that the net value of the assets in Cuba on December 6, 1961, the date of loss, was \$650,005.00. Therefore, claimant's 1/2 interest therein had a value of \$325,002.50.

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.

Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision of April 21, 1971 is affirmed.


CU-8388


CERTIFICATION OF LOSS

The Commission certifies that AMELIA GEORGE DABUL suffered a loss, as a result of action 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 Three Hundred Twenty-five Thousand Two Dollars and Fifty Cents (\$325,002.50) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

SEP 15 1971


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.

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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 \$1,372,000.00, was presented by AMELIA GEORGE DABUL, based upon the asserted loss of certain real and personal property in Cuba. 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.

The record shows that this claim was received by the Commission long after the filing period ended (May 1, 1967) pursuant to Commission regulations. The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.)

Claimant asserts the following losses:

400 lots at \$3,000.00	\$1,200,000.00
5 houses at \$10,000.00	50,000.00
Personal residence	20,000.00
Hotel	40,000.00
Business store	<u>62,000.00</u>
Total	<u><u>\$1,372,000.00</u></u>

The only evidence of record in support of this claim consists of three identical affidavits which recite that claimant and her husband owned the listed properties and the valuations in exact conformance with claimant's statements. On several occasions the Commission suggested the need for further documentary evidence. However, no such evidence has been filed. Moreover, the Commission has attempted to obtain evidence concerning the property subject of this claim, but without success.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

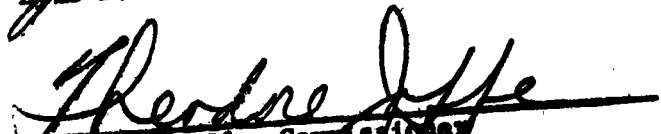
The Commission finds that claimant has failed to sustain the burden of proof. The evidence does not establish that claimant owned rights and

interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied in its entirety. The Commission deems it unnecessary to consider other elements of this claim.

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

APR 21 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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 (1970).)