

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

IN THE MATTER OF THE CLAIM OF

ALESA FRANCISCO SOUTO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 8228

Decision No. CU 6071

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 ALESA FRANCISCO SOUTO for \$158,339 (sic) later amended, based on interests in real property and personalty in Cuba. The claim was filed on April 1, 1968, claimant having left Cuba on February 19, 1968. It is considered timely filed in view of the class action taken by the Commission in June, 1967, on behalf of United States citizens in Cuba, at which time the Commission opened Claim No. CU-3816 on behalf of claimant, and which claim was thereafter dismissed. 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.

Pursuant to the community property law of Cuba, spouses have equal interests in property acquired during coverture, except that inherited or acquired by gift. The record does not reflect the nationality of claimant's spouse, Olegario Alfonso Souto Campanioni, and accordingly, so much of the claim as may be based on his interests is denied.

Claimant described the losses as follows:

<u>Realty</u>	<u>Unit Value</u>	
1. 4-story apartment building 212 11th Street Vedado	\$90,000	
2. Shed, 117 Garayalde Street, Holguin	1,200	
3. Shed, 119 Garayalde, Holguin	2,609	
4. Shed, 96-A Garayalde, Holguin	2,000	
5. 1/2 of sheds at 19 and 21 Maceo St., Holguin	8,000	
6. 1/2 of sheds at 4 and 6 Maceo Street, and at 91, 93 and 95 Cuba Street, Holguin	6,000	
7. 1/3 of shed on 101 Arias in Holguin	7,000	
8. Land in pasture of Holguin	200	
9. Apartment 752 of Riomar Building First Avenue, Marianao	19,725	<u>Claimed</u>
10. Apartment 407 of Varaforte, Playa Azul, Varadero	<u>8,350</u>	\$133,419
<u>Personalty</u>		
1958 Chevrolet Sedan	3,265	
Household furnishings	9,990	
1943 Wedding gifts	<u>4,264</u>	<u>17,519</u>
		\$150,938

On the basis of the record including a notarial document and several reports from abroad, the Commission finds that claimant owned certain real and personal property interests in Cuba.

The Commission further finds that the real properties were subject to the Cuban Law on Urban Reform published on October 14, 1960; and that

the personal property was subject to Law 989 published on December 6, 1961, which provided for confiscation of the property of those who left Cuba.

The Commission finds that claimant's interests in the real properties were taken on February 20, 1968, pursuant to the Urban Reform Law, and her interests in the personal property were taken on that date, pursuant to Law 989, subsequent to her departure from Cuba.

Although the claim for loss arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

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.

REAL PROPERTY

On the basis of the descriptions in the notarial document, the reports from abroad and evidence available to the Commission as to the values of similar properties in Cuba, the Commission finds that the asserted unit values of the realties are fair and reasonable. However, it appears that Item (9) was encumbered by a mortgage in the amount of \$10,000 which must be deducted in order to ascertain the value of claimant's equity in this item. Thus the claimant's interests in the real properties lost are as follows:

Item 1	one-half	\$45,000.00
2	one-half	600.00
3	one-half	1,304.50
4	one-half	1,000.00
5	one-fourth	2,000.00
6	one-fourth	1,500.00
7	one-sixth	1,167.50
8	one-half	100.00
9	one-half the equity	4,862.50
10	one-half	<u>4,175.00</u>
		\$61,709.50

PERSONAL PROPERTY

The Commission has considered the estimated cost of the 1958 automobile in the amount of \$3,265. Ordinarily such vehicles are subject to depreciation at the rate of 15 per cent per year. The Commission finds however, that the vehicle had some value on the date of loss and finds that value as \$325, in which claimant's interest was \$162.50.

The next category of personal property to be considered is that consisting of household furnishings with an estimated cost of \$9,990 in claimant's affidavit, which also gives the year of acquisition. These items are normally subject to depreciation of 5 per cent per year. The residual value is found as \$4,995 in which claimant had an interest of \$2,497.50.

The 1943 wedding gifts are found to be the claimant's sole property. Some of these, silver, china and the like, with an estimated cost of \$2,885, are not subject to depreciation, and the Commission finds that claimant suffered a loss of \$2,885 in this connection.

Next for consideration are certain furniture, a television set and a radio-phonograph with an estimated cost of \$965. The Commission finds that these items had a residual value of \$482.50 on the date of loss.

Lastly, the Commission considers items of linen, towels, a mirror, which normally are subject to depreciation at 10 per cent per year, and which group has an estimated cost of \$414. The Commission finds that these items had a residual value of \$207 on the date of loss.

Recapitulation

Claimant's losses on February 20, 1968, are summarized as follows:

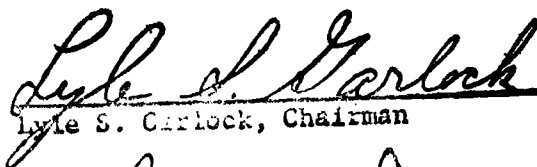
Real property		\$61,709.50	
Personalty			
Automobile	162.50		
Community property	\$2,497.50		
Wedding gifts	<u>3,574.50</u>		<u>6,234.50</u>
			\$67,944.00


CERTIFICATION OF LOSS

The Commission certifies that ALESA FRANCISCO SOUTO 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 Sixty-Seven Thousand Nine Hundred Forty-Four Dollars (\$67,944.00) with interest thereon at 6% per annum from February 20, 1968 to the date of settlement.

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

FEB 17 1971


Lyle S. Carlock, 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 (1970).)