

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

IN THE MATTER OF THE CLAIM OF

THE UNITED STATES LIFE
INSURANCE COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1478

Decision No. CU 5754

Counsel for claimant:

John L. Hoffman, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amount of \$2,022,416.02, was presented by THE UNITED STATES LIFE INSURANCE COMPANY based upon the loss of property in Cuba.

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 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record shows that claimant was organized under the laws of New York. An authorized officer of claimant has certified that at all pertinent times substantially all of claimant's outstanding capital stock was owned by nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record shows that claimant carried on an insurance business in Cuba through a branch office in Havana. In connection with these operations, claimant owned certain items of property, discussed in detail below.

On October 24, 1960, the Government of Cuba published in its Official Gazette Resolution 3 pursuant to Law 851, which listed as nationalized THE UNITED STATES LIFE INSURANCE COMPANY. The Commission finds that claimant's assets in Cuba were nationalized within the meaning of Title V of the Act on October 24, 1960, except as otherwise noted below.

Claimant has computed its claim as follows:

Bonds	\$ 737,231.96
Stocks	21,000.00
Mortgage Loans	756,729.09
Debts due from Cuban Agents	1,290.87
Furniture and Fixtures	5,000.00
Bank Deposits	<u>501,164.10</u>
Total	<u><u>\$2,022,416.02</u></u>

Bonds

The evidence establishes and the Commission finds that all of the bonds, discussed hereafter, were owned by claimant and were on deposit either in banks in Cuba or with the Cuban Treasury Department.

1. 4% Republic of Cuba Desarrollo Economica y Social Bonds, Due 1986

The Commission finds that claimant owned bonds known as 4% Republic of Cuba Desarrollo Economica y Social Bonds, due 1986, in the face amount of \$80,000.00, the Cuban peso being on a par with the United States dollar. The Commission holds that the nationalization of claimant's assets on October 24, 1960 constituted a repudiation of the debt by the Government of Cuba, and gave rise to a claim within the meaning of Title V of the Act. The Commission, therefore, finds that claimant sustained a loss with respect to these 4% bonds on October 24, 1960. (See Claim of National Union Fire Insurance Company of Pittsburgh, Pa., Claim No. CU-0488.)

The Commission further finds that on October 24, 1960, the date of loss, the Government of Cuba owed claimant \$81,280.01, representing \$80,000.00 in principal and interest in the amount of \$1,280.01.

2. 4% Republic of Cuba Veterans, Courts and Public Works Bonds, 1953-1983

The Commission finds that claimant owned bonds known as 4% Republic of Cuba Veterans, Courts and Public Works Bonds, 1953-1983, in the face amount of \$85,000.00. The evidence establishes that the Government of Cuba defaulted on the payment of interest on these bonds on May 1, 1961, the last payment of interest having been made for the semiannual period ending November 1, 1960. (See Claim of Westchester Fire Insurance Company, Claim No. CU-1703.) The Commission, therefore, finds that on October 24, 1960, the date of loss, the Government of Cuba owed claimant \$85,000.00 on account of these 4% bonds.

3. 4-1/2% Financiera Nacional de Cuba Bonds, Due 1979

The Commission finds that claimant owned bonds known as 4-1/2% Financiera Nacional de Cuba Bonds, due 1979, in the face amount of \$72,000.00. The Commission has found that Financiera Nacional de Cuba was a semi-public entity

that was liquidated on August 17, 1960 and that all of its liabilities were assumed by the Government of Cuba. (See Claim of Phoenix Insurance Company, Claim No. CU-1913.) Accordingly, claimant was a creditor of the Government of Cuba. As in the case of the 4% bonds due 1986, item 1 above, the nationalization of claimant's assets was a repudiation of the debt by the Government of Cuba, and gave rise to a claim on October 24, 1960 within the meaning of Title V of the Act.

The Commission, therefore, finds that on October 24, 1960, the date of loss, the Government of Cuba owed claimant \$73,566.00, representing \$72,000.00 in principal and interest in the amount of \$1,566.00.

4. 4-1/2% Bonds of the External Debt of the Republic of Cuba, 1937-1977

The Commission finds that claimant owned bonds known as 4-1/2% Bonds of the External Debt of the Republic of Cuba, 1937-1977, in the face amount of \$139,000.00. The evidence establishes that the Government of Cuba defaulted on the payment of interest on these bonds on December 31, 1960, the last payment of interest having been made for the semiannual period ending June 30, 1960. The Commission, therefore, finds that on October 24, 1960, the date of loss, the Government of Cuba owed claimant \$140,980.75, representing \$139,000.00 in principal and interest in the amount of \$1,980.75.

5. 4% Bonds of the Public Debt of Cuba, 1950-1980

The Commission finds that claimant owned bonds known as 4% Bonds of the Public Debt of Cuba, 1950-1980, in the face amount of \$85,000.00. The Commission further finds that a claim for a loss based upon these 4% bonds arose on October 24, 1960 when claimant's assets were nationalized by the Government of Cuba.

The Commission further finds that on October 24, 1960, the date of loss, the Government of Cuba owed claimant \$86,076.08, representing \$85,000.00 in principal and interest in the amount of \$1,076.08.

6. 4% Bonds of the Cuban Telephone Company

The Commission finds that claimant owned bonds of the Cuban Telephone Company in the face amount of \$200,000.00. The Commission has held that a

claim based upon debts of the Cuban Telephone Company is within the purview of Title V of the Act although the Cuban Telephone Company was a national of the United States at all pertinent times because it is now defunct. (See Claim of International Telephone and Telegraph Corporation, Claim No. CU-2615.)

In that claim, the Commission found that the assets of the Cuban Telephone Company had been taken by the Government of Cuba on August 6, 1960.

The record shows that interest was last paid on account of these bonds for the period ending May 31, 1960. Accordingly, the Commission finds that on August 6, 1960, the date of loss, the Cuban Telephone Company owed claimant \$201,355.54, representing \$200,000.00 in principal and interest in the amount of \$1,355.54.

7. 5-1/4% Bonds of the Exquisite Form Brassiere of Cuba, S.A.

The Commission finds that claimant owned bonds known as 5-1/4% Bonds of the Exquisite Form Brassiere de Cuba, S.A., a Cuban corporation. The evidence establishes that this Cuban corporation was nationalized by the Government of Cuba on October 24, 1960 by Resolution 3, pursuant to Law 851.

The Commission has held that claims based on debts of nationalized enterprises are within the purview of Title V of the Act. (See Claim of Kramer, Marx, Greenlee & Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

The Commission finds that on October 24, 1960, the date of loss, the nationalized Cuban corporation owed claimant \$110,385.00, representing \$110,000.00 in principal and interest in the amount of \$385.00.

Accordingly, claimant's losses within the meaning of Title V of the Act, based upon bonds, aggregated \$577,287.84.

Stock

The Commission finds that claimant owned 210 shares of stock in Financiera Nacional de Cuba in the face amount of \$21,000.00. The record shows that these shares of stock were on deposit with a bank in Cuba. As noted

above, Financiera Nacional de Cuba was a semi-public entity that had been liquidated by the Government of Cuba on August 17, 1960. Cuba had guaranteed the investments of the stockholders and had assumed all of the liabilities of this entity. The Commission found that a claim for a debt due from Cuba arose on August 17, 1960, the date of liquidation. (See Claim of Phoenix Insurance Company, supra.) The Commission, therefore, finds that the unpaid debt of the Government of Cuba owing to claimant was \$21,000.00 on August 17, 1960, the date of loss.

Mortgage Loans

The evidence includes pertinent extracts from claimant's records, on the basis of which the Commission finds that claimant was owed 55 debts from various Cuban nationals and that these debts were secured by mortgages on properties in Cuba. The evidence of record includes schedules thereof, reflecting loan number, names of owners, descriptions of property and other relevant data, as well as copies of certain mortgage deeds.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Article 30 of this law provided for the cancellation of all mortgages on property in Cuba. The Commission, therefore, finds that claimant's mortgages were cancelled on October 14, 1960, as a result of which claimant sustained a loss within the meaning of Title V of the Act. (See Claim of Estate of Marita Dearing de Lattre, Deceased, Claim No. CU-0116.)

The Commission further finds that the aggregate value of claimant's mortgages on October 14, 1960, the date of loss, was \$758,166.59, representing \$756,729.09 in principal and interest in the amount of \$1,437.50.

Accounts Receivable

The Commission finds on the basis of pertinent extracts from claimant's records that claimant owned accounts receivable due from its Cuban agents. The Commission further finds that on October 24, 1960, the date of loss, the value of claimant's accounts receivable was \$1,290.87.

Furniture and Fixtures

The Commission finds on the basis of the evidence of record that claimant owned various items of furniture, fixtures and related equipment at its branch office in Cuba. The record includes a detailed listing thereof. It further appears that said property was covered by an insurance policy in the amount of \$5,000.00. In the absence of evidence to the contrary, the Commission finds the value of said personal property should be measured by the insurance policy. Accordingly, the Commission finds that the value of the furniture, fixtures and related equipment on October 24, 1960, the date of loss, was \$5,000.00.

Bank Deposits

The record includes copies of bank statements, showing that claimant owned two bank accounts with The First National Bank of New York, Havana branch with balances of \$487,422.46 (DUP-P-8203) and \$13,741.64 (DUP-1446) as of October 20, 1960 and October 21, 1960, respectively. The Commission, therefore, finds that the aggregate value of claimant's bank accounts on October 24, 1960, the date of loss, was \$501,164.10.

Claimant's losses within the meaning of Title V of the Act may be summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Bonds	August 6, 1960	\$ 201,355.54 ✓
Bonds	October 24, 1960	577,287.84 ✓
Stock	August 17, 1960	21,000.00
Mortgages	October 14, 1960	758,166.59 ✓
Accounts Receivable	October 24, 1960	1,290.87 ✓
Furniture and Fixtures	October 24, 1960	5,000.00 ✓
Bank Deposits	October 24, 1960	<u>501,164.10 ✓</u>
Total		<u>\$2,065,264.94</u>

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

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 respective dates 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>
August 6, 1960	\$ 201,355.54 ✓
August 17, 1960	21,000.00
October 14, 1960	758,166.59 ✓
October 24, 1960	<u>1,084,742.81</u>
	<u>\$2,065,264.94</u>

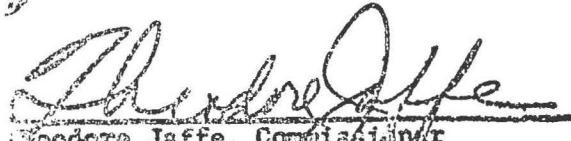
CERTIFICATION OF LOSS

The Commission certifies that THE UNITED STATES LIFE INSURANCE COMPANY 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 Two Million Sixty-five Thousand Two Hundred Sixty-four Dollars and Ninety-four Cents (\$2,065,264.94) with interest thereon 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

AUG 19 1970


S. Carlisle, Chairman


Woodrow 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).)