

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

IN THE MATTER OF THE CLAIM OF

ELIZABETH O. BARKER, EXECUTRIX
OF THE ESTATE OF
JOHN O. BARKER, DECEASED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0017

Decision No. CU-4161

PROPOSED DECEASED

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$545.88 was timely filed by JOHN O. BARKER based upon a bank account in Cuba, and membership in the Havana Biltmore Yacht and Country Club. Decedent, JOHN O. BARKER, had been a national of the United States since birth and died on August 5, 1967. The Executrix of the Estate is substituted as claimant herein.

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 contended that he had lost a bank account in Cuba having a balance of 45.88 pesos. The record establishes that claimant had a balance of 45.88 Cuban pesos on deposit with The First National City Bank of New York, in Havana, Cuba.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. From the foregoing, the Commission finds that claimant's above described bank account, totalling 45.88 pesos, was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Further, The Commission finds that on December 6, 1961, claimant's 45.88 pesos had a value of \$45.88 and that he suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of his bank account by the Government of Cuba as of December 6, 1961.

With regard to the remaining portion of this claim based on deceased's membership in The Havana Biltmore Yacht and Country Club, in our decision entitled Claim of Arman E. Becker, Jr. (Claim No. CU-1094) we found that the Club was intervened by the Government of Cuba on March 19, 1960, that it was a corporation organized under the laws of Cuba, and did not qualify as a corporate "national of the United States", as defined under Section 502(1)(B) of the Act.

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The record discloses that the deceased paid \$500 as initiation fee to become a member in this Club, and the Commission finds that he suffered a loss in this amount within the meaning of Title V of the Act, as a result of the intervention of the Club by the Government of Cuba on March 19, 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).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$45.88 from December 6, 1961 and on \$500.00 from March 19, 1960 to the date on which the provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

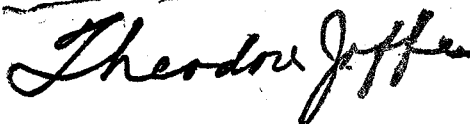
The Commission certifies that ELIZABETH O. BARKER, EXECUTRIX OF THE ESTATE OF JOHN O. BARKER, DECEASED succeeded to and suffered a loss,

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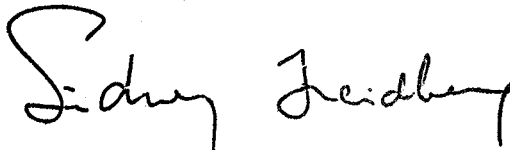
as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Hundred Forty-Five Dollars and Eighty-Eight Cents (\$545.88) with interest thereon at 6% per annum from the respective dates of taking to the date of settlement.

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

NOV 7 1969



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).)

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