

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

IN THE MATTER OF THE CLAIM OF

MICHAEL F. URIARTE

Claim No. CU-0680

Decision No. CU -694

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered November 22, 1967.
No oral hearing requested.

Hearing on the record held on December 14, 1967

FINAL 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 \$30,500.00, was presented by MICHAEL F. URIARTE and is based upon the asserted ownership and loss of real and personal property in Cuba. Under date of November 22, 1967, the Commission issued its Proposed Decision certifying that claimant suffered a loss of \$20,000.00 for his improved real property and \$3,500.00 for his personal property.

Claimant objected to the Commission's findings as to the value of his personal property, contending that the true value of said property was \$10,500.00, and that the Commission erred in awarding the lower sum based on an evaluation made in 1960 by claimant to the American Embassy in Cuba. Claimant asserts that the list was not complete in that it contained only those items which he expected to leave behind and not those items which he in fact was compelled to leave in Cuba on his departure from that country.

The Commission concludes that the 1960 list was intended to be an appraisal of all of claimant's personal property which he subsequently left in Cuba, it being noted that the document itself states as follows:

The house is fully furnished with living room set, dining room set, two bedroom sets, porch furniture, bookshelves, kitchen utensils, record player (hi-fi), TV set, radios, electrical appliances, glassware, etc. There is also a 13 foot motor boat on the property. The estimated price of these belongings is estimated at \$3,500.00 (U. S. Cy.).

The Commission also concludes that the amount presently claimed, \$10,500.00, which claimant asserts was the original cost price, was not the value of claimant's personal property on the date of loss because it does not take into account any amount for depreciation, and that, therefore, the award of \$3,500.00 for loss of claimant's personal property is reasonable, fair and equitable to claimant.


Claimant submitted two affidavits, one from his mother, Francisca Deogracias Uriarte, and one by a friend, Ricardo Garcia Menocal, in support of the currently stated evaluation. The Commission considered these affidavits and found them not to be of sufficient probative value as to warrant a change in amount of the certified loss of \$3,500.00.

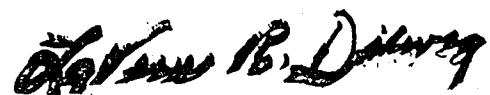
After full consideration of the entire record, including claimant's objections, it is ORDERED that the Proposed Decision be and is hereby affirmed.

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

20 DEC 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
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IN THE MATTER OF THE CLAIM OF

MICHAEL F. URIARTE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0680

Decision No. CU - 694

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$30,500.00, was presented by MICHAEL F. URIARTE based upon the asserted ownership and loss of real and personal property in Cuba. Claimant has been a national of the United States since his naturalization on March 20, 1951.

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 states that he lost an interest in improved real property in Cuba valued at \$20,000.00. He describes this property as being a house and lot located at 421 Second Street, Reparto Barlovento, Playa de Santa Fe, Havana, Cuba.

The record establishes that claimant owned Lot 17 of Section G of Reparto Residencial Barlovento. This land was purchased by installment contract from Playas del Golfo, S.A., and the final payment was made on December 16, 1958. The total cost of the land was \$5,907.72 and the size of the lot was 492.31 square varas.

Claimant states that he lived in the house from 1958 until his departure to the United States of America in August 1960, and further, that the Cuban authorities seized his property in September 1963, after his mother (now in the United States of America) was forced to vacate the premises because of difficulty in obtaining food and a lack of transportation, with a consequent danger to her health. Claimant further says that neither he nor his mother received a receipt for the property from the Cuban authorities. These statements are supported by the affidavits of claimant's mother, Francisca Deogracias Uriarte, and friend, Ricardo Garcia Menocal.

The Commission finds that claimant's improved real property was taken by the Government of Cuba on September 1, 1963, pursuant to the provisions of Law 989 (Official Gazette, December 6, 1961).

Claimant states that the house and lot had a value of \$20,000.00: \$6,000 for the lot, and \$14,000 for the house. He describes the house

as two stories high, constructed of concrete and cement block by Garcia-Bengochea, a local contracting firm, in November-December, 1958. The house consisted of carport, living room, dining room, kitchen, 2 bathrooms, 2 bedrooms, maid's room, porch and patio. Claimant has submitted photographs of the property as well as affidavits from his mother (who lived in the house) and a friend who frequently was a guest in the house.

Based on the entire record, the Commission finds that the value of claimant's improved real property was \$20,000.00 and that claimant suffered a loss in that amount within the meaning of Title V of the Act as a result of the taking of his realty by the Government of Cuba on September 1, 1963.

Claimant also contends that he lost personal property worth \$10,500.00. The property itemized is furniture, electrical appliances, clothing, furnishings, cooking and eating utensils, and miscellaneous personal effects. Claimant asserts that these items had an estimated value of \$10,500.00 and that they were on the premises in September 1963, when the Cuban authorities seized the premises. The Commission finds that the claimant was the owner of personal property which was taken by the Government of Cuba on September 1, 1963.

In support of his contention of value, claimant has submitted the aforementioned affidavits. The record also contains claimant's letter of July 6, 1960, to the First Secretary of the American Embassy in Havana, in which claimant listed his personal property and estimated its value as \$3,500.00.

The Commission finds that the value of claimant's personal property was \$3,500.00, and concludes that claimant has suffered a loss in that amount within the meaning of Title V of the Act as a result of the taking of his personal property by the Government of Cuba on September 1, 1963.

The Commission has decided that in the 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

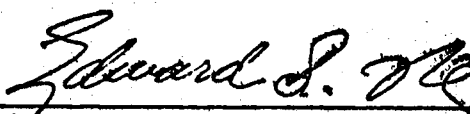
Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from September 1, 1963, the date on which the losses occurred, to the date on which provisions are made for the settlement thereof.

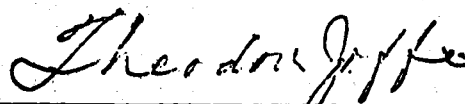
CERTIFICATION OF LOSS

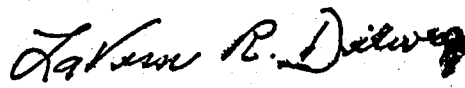
The Commission certifies that MICHAEL F. URIARTE suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Three Thousand Five Hundred Dollars (\$23,500.00) with interest thereon at 6% per annum from September 1, 1963, the date of loss, to the date of settlement.

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

22 NOV 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, 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).)

CU- 0680