

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

IN THE MATTER OF THE CLAIM OF

BENEDICTO R. ARIAS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0683

Decision No. CU 4756

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 \$8,300.00, was presented by BENEDICTO R. ARIAS and is based upon the asserted loss of real and personal property in Cuba. Claimant has been a national of the United States since his naturalization in 1949.

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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

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) (Supp. 1967).)

Claimant asserts that, upon the death of his mother on November 19, 1948, he inherited a 1/4 interest in 4 lots and 3 houses located in Havana, Cuba and a 1/4 interest in rents from these properties deposited in Banco Gelats in Havana, Cuba. He values his interest in the real property at \$5,000.00 and his interest in bank deposit as \$3,300.00.

By Commission letter of July 29, 1966 claimant was advised through counsel as to the type of evidence proper for submission to establish this claim under the Act. Counsel did not reply to Commission letter of June 4, 1968 requesting advice whether he was representing claimant. Future correspondence was to claimant. Thereafter claimant was advised specifically regarding the evidence that was lacking. On July 15, 1968 the Commission received an affidavit from Celso A. Brillas who stated therein that he was appointed by the claimant to handle the estate of claimant's mother who died on November 19, 1948 leaving claimant and his sister as her sole heirs at law "with rights reserved by law" in claimant's father; that the mother's real estate consisted of 3 houses and 1 unimproved lot appraised in the amount of \$20,000.00; and that he knows for a fact that these properties were taken by the Government of Cuba on March 9, 1959. Claimant states that his father was a Cuban citizen and died on April 30, 1968.

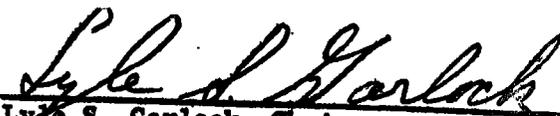
Claimant was asked to describe the properties in question, to advise when and how his mother had acquired them, and how the asserted value of \$20,000.00 was determined. At claimant's suggestion of June 16, 1969 the Commission wrote to Mr. Celso A. Brillas for this information but no reply was received.

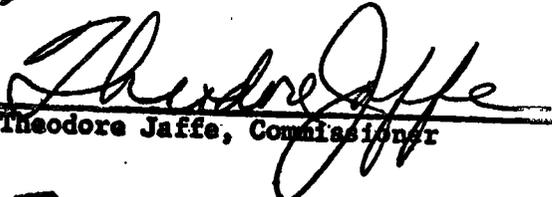
On December 31, 1969 claimant was invited to submit any evidence he had within 30 days and was advised that thereafter a Proposed Decision might issue based on the record. On February 2, 1970 claimant wrote that he had met Mr. Brillas in Miami, Florida and showed him the Commission's letter of May 21, 1969; and that Mr. Brillas had stated he would furnish the answers to the questions asked therein. No reply or evidence has since been received. Moreover a report from abroad states that a search discloses no property registered in the name of ARIAS.

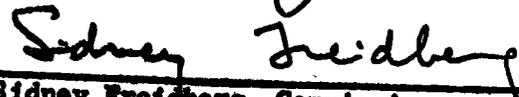
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

15 APR 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)