

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

IN THE MATTER OF THE CLAIM OF

ELENA SUAREZ-GALBAN GARCIA
ELISEO RAMON GARCIA-TUDURI

Claim No. CU-1177

Decision No. CU-1262

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on February 14, 1968;
no oral hearing requested; Hearing on the Record.

Hearing on the record held on August 6, 1970.

FINAL DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by ELENA SUAREZ-GALBAN GARCIA and ELISEO RAMON GARCIA-TUDURI for \$4,893,375.00 based upon the asserted ownership and loss of certain improved and unimproved real property, interests in corporate enterprises, personal property and bank accounts. Claimants ELENA SUAREZ-GALBAN GARCIA and ELISEO RAMON GARCIA-TUDURI have been nationals of the United States since their naturalization on May 10, 1965, and August 23, 1965, respectively.

The Commission issued its Proposed Decision in this claim on February 14, 1968, denying the claim for the reason that claimants failed to establish nationalization or other taking of their property by the Government of Cuba subsequent to the dates of their naturalization as provided by Section 504 of the Act. Thereafter, claimants objected to the Proposed Decision and submitted additional correspondence and evidence concerning the properties subject of their claim, but have failed to submit evidence of probative value establishing that the properties were taken by the Government of Cuba subsequent to the dates when claimants became nationals of the United States.

The Commission made additional suggestions to claimants in letters of April 15, 1968, May 27, 1968, October 1, 1968, August 15, 1969, October 1, 1969 and December 12, 1969, toward the submission of evidence in support of this claim. However, while claimants have responded to these letters, they have failed to submit supporting information or evidence in further clarification or support of their claim with respect to the date or dates of loss of the properties in question, within the meaning of Section 504 of the Act.


Full consideration having been given to the objections of the claimants and the entire claim and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

AUG 19 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freiberg, Commissioner

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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 ELENA SUAREZ-GALBAN GARCIA and ELISEO RAMON GARCIA-TUDURI for \$4,893,375.00 based upon the asserted ownership and loss of certain improved and unimproved real property, interests in corporate enterprises, personal property and bank accounts. Claimants ELENA SUAREZ-GALBAN GARCIA and ELISEO RAMON GARCIA-TUDURI have been nationals of the United States since their naturalization on May 10, 1965 and August 23, 1965, respectively.

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.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established

(1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

Evidence of record indicates that claimants ELENA SUAREZ-GALBAN GARCIA and ELISEO RAMON GARCIA-TUDURI became nationals of the United States on May 10, 1965 and August 23, 1965, respectively. The claimants have failed to submit evidence to establish confiscation, intervention or nationalization of their property subsequent to the dates of their naturalization.

Accordingly, the Commission concludes that this claim is not valid under Title V of the Act in that it was not owned by a national of the United States on the date of loss and, therefore, it is hereby denied.

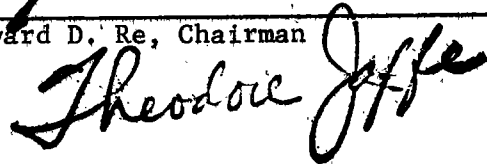
The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

FEB 14 1968



Edward D. Re, Chairman



Theodore Jaffe, 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).)

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