

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

IN THE MATTER OF THE CLAIM OF

JOSE MARIA BEGUIRISTAIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2177

Decision No. CU **6230**

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 \$98,747.00 was presented by JOSE MARIA BEGUIRISTAIN, based upon the asserted loss of shares of stock. The claimant has been a national of the United States since birth.

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 was the owner of the following shares of stock:

- (1) 4 shares of Compania General de Seguros y Fianzas de Sagua la Grande S.A.
- (2) 78 shares of Compania de Ferrocarril de Resulta S.A.
- (3) 7175 shares of Compania Agricola Delta S.A.
- (4) 200 shares of Compania Industrial y Agricola de Quemado de Guines S.A.
- (5) 34 shares of Compania Azucarera Central Resulta
- (6) 17 shares of Cresanta, Compania de Inversiones S.A.
- (7) 10 shares of Compania Inmobiliaria Santa Maria S.A.
- (8) 972 shares of Colonia Reyes S.A.
- (9) 100 shares of Compania Inmobiliaria Beta S.A.
- (10) 7 shares of Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A.

In support of the claim, claimant has submitted an affidavit of his uncle Rogelio Luis Beguiristain, an executive officer in the above-named corporations who states that claimant was, in fact, the owner of the stock. With the exception of one certificate for the shares of the Compania Inmobiliaria Santa Maria S.A. claimant was unable to present the stock certificates because they had remained in Cuba and were inaccessible at the present time. Based upon the evidence in the instant claim and upon the entire record, the Commission finds that claimant was the owner by inheritance of the above-described shares of stock in the ten Cuban corporations.

Since all the above corporations were organized under the laws of Cuba, they do not qualify as corporate "nationals of the United States" defined under Section 502(1)(B) of the Act as corporations or legal entities organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 percent or more in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest (see Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33).

The records of the Commission reveal that by Law 890 first published in the Official Gazette on October 13, 1960, the Cuban Government nationalized the following corporations:

- (5) Compania Azucarera Central Resulta and its affiliates; the
- (2) Compania de Ferrocarril de Resulta S.A. and (8) Colonia Reyes S.A.;
- (4) Compania Industrial y Agricola Quemado de Guines S.A.
- (10) Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A. (under "Muelles de Beguiristain")

On October 14, 1960 the Cuban Government published the Urban Reform Law, and the Commission finds that the assets consisting of office and apartment buildings, building lots and similar type properties of the following corporations were taken on that date:

- (6) Cresanta, Compania de Inversiones S.A.
- (7) Compania Inmobiliaria Santa Maria S.A.
- (9) Compania Inmobiliaria Beta S.A.

On January 12, 1961 the Government of Cuba nationalized the Compania Agricola Delta S.A. (3).

On December 6, 1961, the Cuban Government published Law 989 which effected confiscation of all real property, personal property, rights, shares, stock, bonds, securities and bank accounts of persons who left Cuba. The Commission finds that this law was applicable to claimant's interests in (1) Cia. General de Seguros y Fianzas de Sagua la Grande, S.A.

In the Claim of Maria Vinas, Claim No. CU-3216, the Commission found that at the time of nationalization or taking the shares of stock of the corporations described below had the following value, and the Commission concludes that claimant suffered the following losses:

<u>Number of Shares Owned</u>	<u>Item</u>	<u>Date of Loss</u>	<u>Value of One Share</u>	<u>Claimant's Loss</u>
4	(1) Cia. General de Seguros	December 6, 1961	\$205.10	\$ 820.40
78	(2) Ferrocarril de Resulta	October 13, 1960	50.00	3,900.00
200	(4) Cia. Quemado de Guines	October 13, 1960	65.33	13,066.00
34	(5) Central \ Resulta	October 13, 1960	2,501.03	85,035.02
972	(8) Colonia Reyes	October 13, 1960	.40	388.80
100	(9) Inmobiliaria Beta	October 14, 1960	100.00	<u>10,000.00</u>
				\$113,210.22

With respect to the claim based upon the shares of stock of (6) Cresanta, Compania de Inversiones S.A., (3) Compania Agricola Delta S.A., (7) Compania Inmobiliaria Santa Maria S.A. and (10) Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A., the record is insufficient to enable the Commission to place any value on the shares of stock. The portion of the claim relating to the four last-named companies is therefore denied.

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

The Commission has decided that in certifications of loss 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) and in the instant case it is so ordered, as follows:


<u>FROM</u>	<u>ON</u>
October 13, 1960	\$102,389.82
October 14, 1960	10,000.00
December 6, 1961	<u>820.40</u>
	\$113,210.22

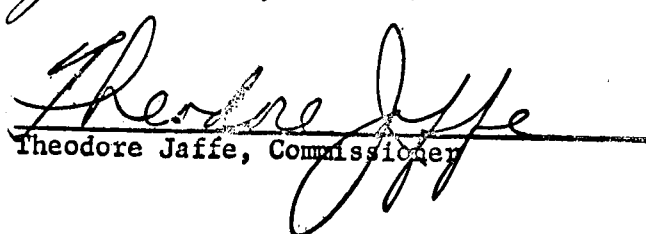
CERTIFICATION OF LOSS

The Commission certifies that JOSE MARIA BEGUIRISTAIN 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 One Hundred Thirteen Thousand Two Hundred Ten Dollars and Twenty-Two Cents (\$113,210.22) with interest thereon at 6% per annum from the respective dates of the loss to the date of settlement.

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

JUN 16 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: This claimant may be the subject of another certification of loss in CU-2696 involving asserted losses not covered under this Proposed Decision.

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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. 31.5(e) and (g), as amended (1970).)

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