

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

IN THE MATTER OF THE CLAIM OF

JOSE ANTONIO BEGUIRISTAIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2705

Decision No. CU 6232

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 \$99,347.00, was presented by JOSE ANTONIO BEGUIRISTAIN, based upon the asserted loss of shares of stock and an automobile. 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) 7 shares of Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A.
- (5) 210 shares of Compania Industrial y Agricola de Quemado de Guines S.A.
- (6) 39 shares of Compania Azucarera Central Resulta
- (7) 17 shares of Cresanta, Compania de Inversiones S.A.
- (8) 10 shares of Compania Inmobiliaria Santa Maria S.A.
- (9) 100 shares of Compania Inmobiliaria Beta S.A.
- (10) 972 shares of Colonia Reyes S.A.

Claimant further states that he was the owner of a passenger automobile, license No. 341-054.

In support of the claim, claimant has submitted a sworn statement executed before a Notary Public in Havana on November 10, 1966, prior to his departure from Cuba, and registration certificate for the car. 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 remained in Cuba and could not be transferred out of that country. 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 of the ten Cuban corporations, and the above-described passenger automobile.

Since all 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 American stockholders are entitled to file claims for the value of their 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:

- (6) Compania Azucarera Central Resulta and its affiliates; the
- (2) Compania de Ferrocarril de Resulta S.A., and (10) Colonia Reyes S.A.;
- (5) Compania Industrial y Agricola de Quemado de Guines S.A.
- (4) 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 assets of the following companies, consisting of office and apartment buildings, building lots and similar type properties were taken on that date:

- (7) Cresanta, Compania de Inversiones S.A.
- (8) 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 claimant's interests in (1) Cia. General de Seguros y Fianzas de Sagua la Grande, S.A., were taken on December 6, 1961, at the same time that the other family interests in this company were taken, although the company was not formally nationalized until April 28, 1964 by Resolution 1034, under Law 890. Further, this law was applicable to claimant's passenger automobile, claimant having left Cuba at the end of 1966.

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>No. 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
210	(5) Cia. Quemado de Guines	October 13, 1960	65.33	13,719.30
39	(6) Central Resulta	October 13, 1960	2,501.03	97,540.17
972	(10) Colonia Reyes	October 13, 1960	.40	388.80
100	(9) Inmobiliaria Beta	October 14, 1960	100.00	<u>10,000.00</u>
			Total	\$126,368.67

The Commission further finds that the value of claimant's passenger automobile in 1966 was 600.00

Aggregate Loss \$126,968.67

With respect to the claim based upon the shares of stock of (7) Cresanta, Compania de Inversiones, (3) Compania Agricola Delta S.A., (8) Compania Inmobiliaria Santa Maria S.A., and (4) 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:

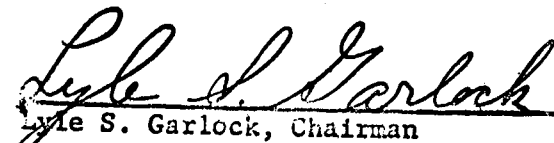
<u>FROM</u>	<u>ON</u>
October 13, 1960	\$115,548.27
October 14, 1960	10,000.00
December 6, 1961	820.40
December 31, 1966	<u>600.00</u>
	\$126,968.67

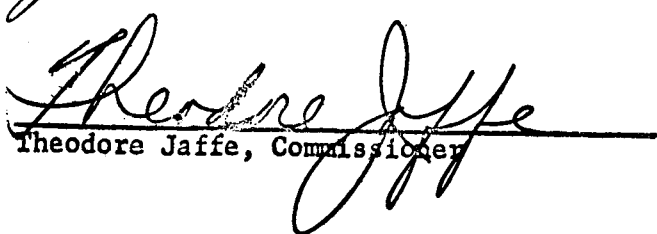
CERTIFICATION OF LOSS

The Commission certifies that JOSE ANTONIO 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 Twenty-six Thousand Nine Hundred Sixty-eight Dollars and Sixty-seven Cents (\$126,968.67) with interest at 6% per annum from the respective dates of 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. §531.5(e) and (g), as amended (1970).)

CU-2705