

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

IN THE MATTER OF THE CLAIM OF

ANDRES GARCIA ALVAREZ

Claim No. CU-3046

Decision No. CU-1083

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Whitaker, Goodson & Garcia
By: Andrew J. Garcia, Jr., Esq.

Appeal and objections from a Proposed Decision dated and entered January 31, 1968.

No oral hearing requested.

Hearing on the record held September 11, 1968

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 \$273,900.00, was presented by ANDRES GARCIA ALVAREZ and is based upon the asserted loss in Cuba of an interest in certain real and personal property and a mortgage located in the City of Nueva, Gerona, Isle of Pines and in Havana, Cuba.

No evidence in support of this claim was submitted. Accordingly, under date of January 31, 1968, the Commission issued its Proposed Decision denying this claim on the ground that claimant did not meet the burden of proof in that he failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba.

Claimant objected to the findings of the Commission and requested an extension of time in which to submit supporting evidence. By letter dated March 4, 1968, claimant was granted a thirty (30) day extension. Claimant was also advised that if the evidence was not furnished within the extension of time, the claim would be presented to the Commission for final determination. No evidence in response to this letter was furnished.

The record reflects that claimant has certain supporting evidence in his possession. The Commission, by letter dated May 17, 1968, specifically suggested that claimant submit this evidence. On May 24, 1968, claimant through counsel, indicated that he did not wish to proceed with the claim at this time.

The Commission has re-examined all the evidence of record in this claim and finds that it is insufficient to establish the ownership, loss and value of the subject property.

Full consideration having been given to the entire record, including claimant's objections, it is

ORDERED that the Proposed Decision be and it is hereby affirmed.

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

SEP 25 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

ANDRES GARCIA ALVAREZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3046

Decision No. CU
1083

Counsel for claimant:

Whitaker, Goodson & Garcia
By: Andrew J. Garcia, Jr., Esq.

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 \$273,900.00, was presented by ANDRES GARCIA ALVAREZ and is based upon the asserted loss in Cuba of an interest in certain real and personal property and a mortgage. Claimant has been a national of the United States since his naturalization on March 10, 1939.

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 states that he is the owner of a one-half interest in a farm known as "San Carlos" located in the City of Nueva, Gerona, Isle of Pines, the owner of packing house land situated in the same City, and the owner of an apartment house located in Havana. In addition, claimant states that he held a mortgage on the farm San Carlos, was the owner of certain equipment and an automobile situated in Havana and was the owner of a one-third interest of certain equipment situated on the Isle of Pines. Claimant states further that the subject property was taken by the Government of Cuba. No evidence in support of this claim was furnished.

By Commission letter of July 7, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of August 30, 1967,

the Commission again requested the submission of the necessary evidence. An extension of thirty (30) days was granted to claimant on October 15, 1967 and counsel was advised that if the evidence was not submitted within that time it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted in support of this claim.

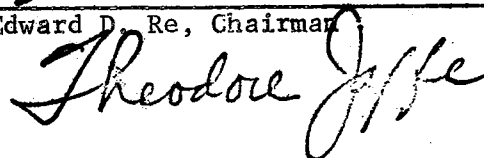
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby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

JAN 31 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).)

CU- 3046