

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

IN THE MATTER OF THE CLAIM OF

ANDREW J. GARCIA, JR.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3047

Decision No. CU - 1084

Counsel for claimant:

Whitaker, Goodson & Garcia

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 \$225,900.00, was presented by ANDREW J. GARCIA, JR., and is based upon the asserted loss of certain real and personal property located in Cuba. 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 by a United States national 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

ANDREW J. GARCIA, JR.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3047

Decision No. CU 1084

Counsel for claimant:

Whitaker, Goodson & Garcia

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 \$255,900.00, was presented by ANDREW J. GARCIA, JR., and is based upon the asserted loss of certain real and personal property. Claimant stated that he has been a national of the United States since his birth in the United States.

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 certain property known as Finca Marie Louisa located in San Felipe, Batabano, Cuba, a one-half interest in a farm located in the City of Bejucal and the owner of a packing house situated in the City of Bejucal. Claimant also states that he owned a one-half interest in certain unimproved property located in the City of Bejucal, the owner of an apartment house located in Havana, the owner of certain personal property consisting of equipment and the owner of an interest in a partnership. Claimant states further that the subject property was taken by the Government of Cuba. No evidence has been submitted in support of this claim.

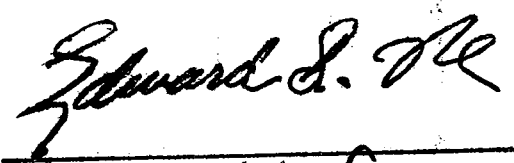
By Commission letter of July 7, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. By letter dated August 30, 1967, claimant was

reminded to furnish the necessary evidence. By letter dated October 16, 1967, the Commission granted a thirty (30) day extension and claimant was advised that if the evidence was not submitted within that period of time it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

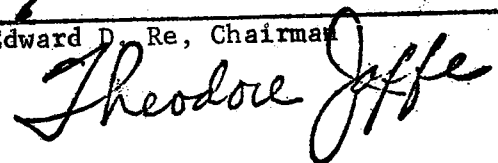
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership by a United States national of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny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