

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

IN THE MATTER OF THE CLAIM OF

RAUL G. VINAS

Claim No. CU - 3061

Decision No. CU - 867

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Manuel Zaiac, Esq.

Appeal and Objections from a Proposed Decision entered December 20, 1967.

No oral hearing requested; Hearing on the Record.

Hearing on the Record held on June 26, 1968

FINAL DECISION

The Commission issued its Proposed Decision on December 20, 1967 denying this claim, based on a one-half interest in land, buildings and equipment incident to a sugar plantation in Cuba, for the reason that claimant had 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 Proposed Decision. He has submitted affidavits of his brother and another person. The Commission concludes, however, that the affidavits submitted are, in and of themselves, of insufficient probative value to warrant any change in the Proposed Decision. By letters, of January 26, 1968 and April 23, 1968, additional suggestions were made to claimant, through counsel, as to evidence that might be submitted in support of this claim. No response to these letters has been received to date.

Full consideration having been given to claimant's objections and a review of the entire record, including the affidavits referred to above, having been made, it is

ORDERED that the Proposed Decision be and hereby is entered as the Final Decision of the Commission.

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

3 JUL 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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AMENDED PROPOSED DECISION

By Proposed Decision issued December 20, 1967 the Commission denied this claim for failure of proof. The decision was entered as final on July 3, 1968. Since then, satisfactory evidence has been submitted. Accordingly, the Final Decision is set aside and the Proposed Decision is hereby amended.

Claim is based on a one-half interest in a sugar plantation, including certain improvements and equipment. Claimant has been a national of the United States since his naturalization on November 12, 1952.

The evidence of record includes affidavits by claimant's brother, a member of the bar in Cuba; an officer of an importer who did business with the brothers; of a supervisory employee of Cia. Azucarera Atlantica del Golfo, which milled the sugar cane produced on the sugar plantations operated by claimant and his brother; as well as an affidavit from a former employee familiar with title to the property. Additionally the record contains clarifications offered by claimant.

On the basis of the record the Commission now holds that claimant owned since inheritance in 1944, a one-half interest in the farms San Juan (Las Mulas) and San Jose, at Sabanilla, Matanzas, Cuba, which farms consisted of approximately 165 hectares of land.

On November 20, 1963, the Cuban Government published in its Official Gazette, Resolution No. 450 of the National Institute of Agrarian Reform, pursuant to the Law of October 3, 1963 which established nationalization of all rural farms in excess of 67 hectares. This Resolution was directed to establishing rules for indemnification for persons whose farms were taken, but did not in itself take the property, nor effect compensation. The Commission finds that claimant's interest in the above described property was taken by the Government of Cuba on October 3, 1963, pursuant to the Law of that date.

The property is described as over 12 caballeria, having an initial value of \$30,000; with improvements in the nature of small wooden houses added in 1950 with a value of \$10,000; and sugar cane planted pursuant to a quota of 60,000 arrobas, having a value of \$20,000; and equipment consisting of usual machinery and needed animals with a cost of \$3,000. Based on the record, and evidence available to the Commission as to values of similar properties, the Commission finds that the entire property had a value of \$63,000 and that claimant's interest therein at the time of taking was \$31,500.

The Commission has decided that in certification of losses 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.

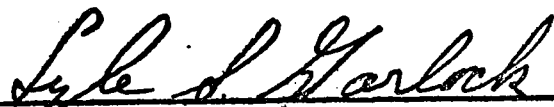
Accordingly the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

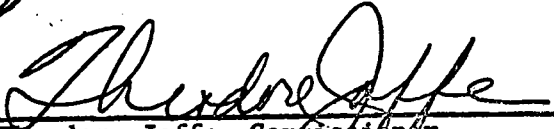
CERTIFICATION OF LOSS

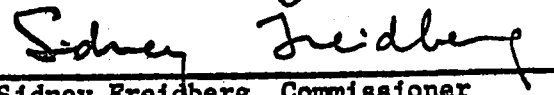
The Commission certifies that RUAL G. VINAS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-One Thousand Five Hundred Dollars (\$31,500.00) with interest at 6% per annum from October 3, 1963 to the date of settlement.

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

APR 29 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

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 Amended 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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Claim No. CU - 3061

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867

Counsel for claimant:

Manuel Zaiac, 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 \$31,500.00, was presented by RAUL G. VINAS and is based upon the asserted loss of a one-half interest in a sugar farm. Claimant states that he has been a national of the United States since his naturalization in 1952.

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 asserts that he was the owner of a one-half interest in a sugar farm at Sabanilla del Encomendador, Matanzas Province, Cuba which including land, improvements and equipment had a total value of \$53,000.00 and that it was taken by the Government there pursuant to Resolution number 450, published by the National Institute of Agrarian Reform in November, 1963.

By Commission letter of August 22, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Included with the latter was a form requesting information of ownership of real property, prompting the claimant to give a more complete description of the property claimed and requesting the assistance of the Commission. Other than a letter from counsel, advising the Commission that additional information would be forthcoming "within a few days," no response to this correspondence has been received to date.

On September 27, 1967, counsel was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

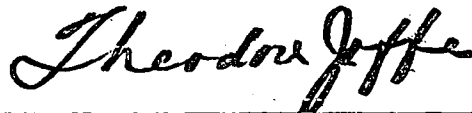
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby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

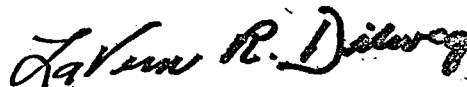
20 DEC 1967



Edward D. Re, Chairman



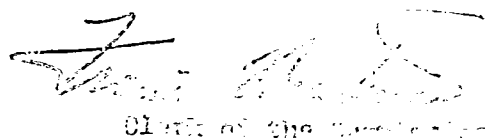
Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on _____


Clerk of the Commission

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- 3061