

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

IN THE MATTER OF THE CLAIM OF

CELESTINO A. MARTINEZ
and
MERCEDES MARTINEZ

Claim No. CU -3138

Decision No. CU -344

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered September 20, 1967;
No hearing requested.

Hearing on the record held September 1, 1971.

FINAL DECISION

This claim, based on real and personal property at Victoria de las Tunas, Oriente, Cuba, was denied on September 20, 1967 for failure of proof. Claimant's spouse, MERCEDES MARTINEZ, having an interest in the properties subject of this claim, pursuant to the community property law of Cuba, has been joined as claimant in this matter. Claimants have been nationals of the United States at all times pertinent to this claim.

Claimants describe their losses as follows:

399.6 acres of land	\$127,500.00
Livestock	770,585.00
Truck and equipment	<u>2,000.00</u>
	\$200,085.00

Claimants have been unable to submit documentary evidence of their ownership such as deeds, purchase contracts or the like. However, they have asserted and documented an allowance by Internal Revenue Service in the amount of \$161,570.20 in connection with their losses in Cuba.

The Commission now finds that claimants jointly owned 399.6 acres of land in Victoria de las Tunas, Oriente, livestock as listed by claimants, and a tractor, truck and jeep, and further, that these were taken by the Government of Cuba on June 3, 1959, pursuant to the Agrarian Reform law.

Further the Commission finds that at that time the properties had the following values:

Land, 399.6 acres	\$114,685.20
Livestock	44,885.00
Equipment	<u>2,000.00</u>
	\$161,570.20

The Commission therefore finds that each claimant suffered a loss in the amount of \$80,785.10 within the scope of Title V as a result of the taking of the property by the Government of Cuba.

Accordingly, the following Certifications of Loss will be entered and in all other respects, the Proposed Decision as amended herein, is affirmed.

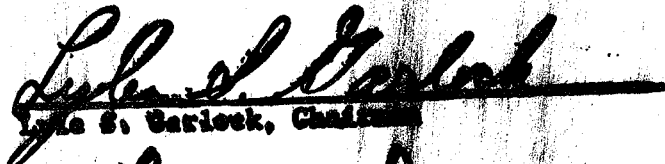
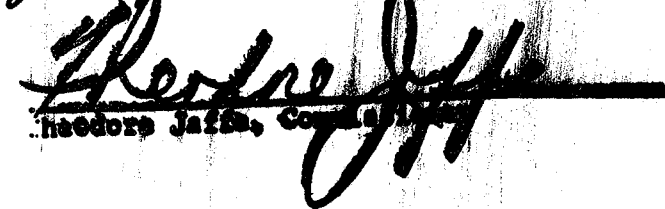
CERTIFICATIONS OF LOSS

The Commission certifies that CELESTINO A. MARTINEZ 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 Eighty Thousand Seven Hundred Eighty-Five Dollars and Ten Cents (\$80,785.10) with interest at 6% per annum from June 3, 1959, to the date of settlement; and

The Commission certifies that MERCEDES MARTINEZ 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 Eighty Thousand Seven Hundred Eighty-Five Dollars and Ten Cents (\$80,785.10) with interest at 6% per annum from June 3, 1959 to the date of settlement.

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

SEP 1 1970


Lyle S. Barlock, Chairman

Theodore Jaffe, 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.

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

IN THE MATTER OF THE CLAIM OF

CELESTINO A. MARTINEZ

Claim No. CU -3138

Decision No. CU 344

Under the International Claims Settlement
Act of 1949, as amended

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 \$200,085.00, was presented by CELESTINO A. MARTINEZ based upon the asserted loss of real property and personal property in Cuba. Claimant has been a national of the United States since his naturalization on September 26, 1941.

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 of 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 in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership of certain real and personal property located at Victoria de las Tunas, Oriente, Cuba; however, claimant has submitted no documentary evidence in support of his claim. By Commission letter of June 20, 1967, claimant was advised as to the type of evidence proper for submission to establish his claim under the Act.

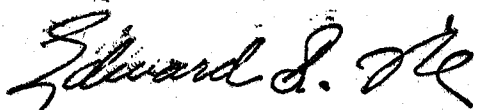
On July 20, 1967, claimant was invited to submit any evidence he might have within 45 days from that date, and he was informed, that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Claimant has not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

The Commission finds that claimant has not met 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.

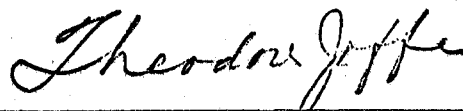
Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

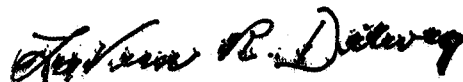
SEP 20 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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-3138