

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

IN THE MATTER OF THE CLAIM OF

MACK S. VILA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3210

Decision No. CU-4644

AMENDED PROPOSED DECISION

Under date of March 18, 1970, the Commission issued its Proposed Decision denying this claim for lack of proof. Subsequently, certain evidence was submitted in support of this claim.

Upon consideration of the new evidence in the light of the entire record, it is

ORDERED that the Proposed Decision be amended as follows:

The Commission now finds on the basis of the evidence of record that claimant and his wife, a nonnational of the United States, each owned a one-half interest in certain improved real property in Cuba. (See Claim of Robert L. Cheaney, et ux., Claim No. CU-0915.) The Commission further finds that said property discussed in detail below was within the purview of the Urban Reform Law of October 14, 1960. In the absence of evidence to the contrary, the Commission finds that the property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

2917 - 52 Street, Marianao

A report from abroad discloses that in 1936 claimant and his wife acquired improved real property at 2917 - 52 Street, Marianao, Havana, Cuba

at a cost of \$16,000.00, the Cuban peso being on a par with the United States dollar. The property was then subject to a mortgage of \$8,000.00; however the record includes a copy of an official document showing that the mortgage had been fully satisfied in 1952.

It appears that the property originally included a frame house. Claimant tore down the house and in 1947 he replaced it with a two-story building containing one apartment on each floor. The record includes a photograph of the property.

It further appears that claimant was offered \$30,500.00 for the improved real property. On the basis of the entire record, the Commission finds that the improved real property at 2917 - 52 Street, Marianao, Havana, Cuba, had a value of \$30,500.00 on October 14, 1960, the date of loss. Therefore, claimant's one-half interest had a value of \$15,250.00. No amount can be allowed on account of the other one-half interest owned by claimant's wife because she cannot satisfy the prerequisites of Section 504(a) of the Act, which provides as follows:

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.

5024 - 31st Avenue, Marianao

A report from abroad discloses that in 1936 claimant and his wife acquired improved real property at 5024 - 31st Avenue, Marianao, Havana, Cuba, at a cost of \$11,402.32. In 1947 claimant tore down the old structure and erected a new two-story building. The record includes a photograph of the property. It appears that the property was subject to a mortgage of \$5,700.00 as of January 20, 1954. There is no evidence in the record to show that the mortgage had been satisfied.

It appears from claimant's statements that he was offered \$14,700.00 for his equity in the property. On the basis of the entire record, the Commission finds that the equity of claimant and his wife in the improved real property at 5024 - 31st Avenue, Marianao, Havana, Cuba, on October 14, 1960 was \$14,700.00. Therefore, claimant's one-half interest had a value of \$7,350.00.

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.

No evidence having been submitted in support of other portions of the claim that were denied in the previous decision, the Commission affirms the Proposed Decision of March 18, 1970 in those respects.

Accordingly, the following Certification of Loss will be entered:

CERTIFICATION OF LOSS

The Commission certifies that MACK S. VILA 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 Twenty-two Thousand Six Hundred Dollars (\$22,600.00) with interest at 6% per annum from October 14, 1960 to the date of settlement.

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

APR 21 1971


Lyle S. Carllock, 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.

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. (ECSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

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IN THE MATTER OF THE CLAIM OF

MACK S. VILA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3210

Decision No. CU 4644

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 \$97,500.00, was presented by MACK S. VILA based upon the asserted loss of certain real and personal property in Cuba. Claimant has been a national of the United States since January 21, 1929.

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 has asserted the loss of three pieces of real property in Marianao, Cuba, in the aggregate amount of \$65,000.00; an aluminum shop and certain electrical equipment in the aggregate amount of \$32,500.00; and cash in the amount of \$30,000.00.

On several occasions the Commission suggested the submission of supporting evidence since no such evidence had been filed. In an effort to assist claimant in documenting his claim, the Commission was successful in obtaining a report in Spanish from abroad concerning the properties in question. Under dates of July 3, 1969, November 20, 1969, December 22, 1969 and February 3, 1970, the Commission requested a translation of that report from claimant, and again suggested the submission of supporting evidence. No response has been received. Except for the untranslated report and claimant's statements, there is no evidence to support any of claimant's assertions.

It appears from claimant's statements that the property in question was owned in equal shares by him and his wife pursuant to the community property laws of Cuba. Claimant's response to a Commission inquiry in January 1968 was that his wife was a Cuban refugee. It would appear therefore that she is not a national of the United States, and would therefore be ineligible under Title V of the Act.

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).)

The Commission finds that claimant has failed to sustain the burden of proof in that he has failed to establish ownership of rights and interests

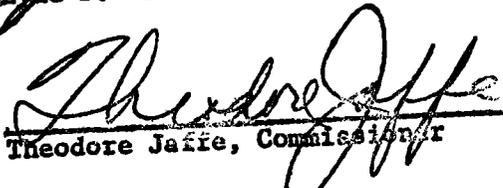
by a national of the United States in property which was nationalized, expropriated, or otherwise taken by the Government of Cuba. Accordingly, this claim is denied in its entirety.

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

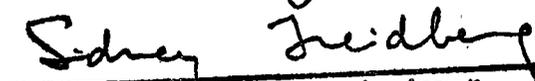
18 MAR 1970



Lyle S. Garlock, Chairman



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

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