

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

IN THE MATTER OF THE CLAIM OF

EUSEBIO BENITEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3214

Decision No. CU

4912

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 \$254,941.45, was presented by EUSEBIO BENITEZ and is based upon the asserted loss of real and personal property in Cuba, stock interests in Cuban enterprises, and a life insurance policy. Claimant 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).)

The claim was filed on April 27, 1967 based on the loss of the following:

1. A 50% interest in improved real property consisting of a house and lot located at 579 Luz Caballero Street, Vibora, Havana, Cuba. The value of this property is asserted to be \$60,000.00.
2. A 50% interest in improvements made to the above-described realty and in furniture and other personalty contained therein, having an asserted value of \$40,000.00.
3. A 1960 Cadillac automobile. Asserted value: \$6,000.00.
4. A stock interest in Compania de Productos Electricos del Hogar, S.A., assertedly amounting to \$70,000.00.
5. A stock interest in La Caridad Sociedad Inmueble de la Habana, S.A., assertedly amounting to \$80,000.00.
6. Policy No. 51221 American International Life Insurance Company. Asserted cash surrender value: \$54,941.45.

The evidence of record consists of the following:

1. Claimant's birth certificate.
2. Photocopies (with accompanying English translations) of Cuban Law 989 of December 6, 1961, and of Cuba's Urban Reform Law of October 14, 1960.
3. A balance sheet (in Spanish) of Compania de Productos Electricos del Hogar, S.A., dated December 31, 1959.

4. A letter from American International Life Insurance Company to claimant, dated January 22, 1960, regarding claimant's request No. 69553 for a life insurance policy.
5. Two affidavits by Luciano E. Goicoechea, a Cuban attorney.

By letter of July 21, 1967, the Commission made suggestions to claimant, through counsel, concerning the submission of additional evidence in support of the claim. Additional suggestions and requests were made in the Commission's letter of November 17, 1967, and by letter of January 11, 1968, counsel was invited to submit the suggested evidence within 45 days and informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record, but that absent reply copy of the letter would be sent to claimant. No reply to this letter was received.


On March 6, 1968 claimant was advised that counsel had not replied to Commission's letter and was invited to submit the evidence suggested in Commission letter of November 17, 1967. No reply to this letter was received. On October 23, 1968 counsel wrote stating that all the evidence available had been furnished, and asked to be notified what further evidence was required. By Commission letter of November 4, 1968 it was suggested to counsel that additional documentation would be helpful, and by letter of March 23, 1970 it was suggested to counsel that he submit specific additional evidence and information within 30 days, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No reply to these letters has been received.

After consideration of the entire record, the Commission concludes that the evidence is of insufficient probative value to establish claimant's ownership of rights and interests in property of a specified value 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

MAY 27 1970


Lyda S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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).)