

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

IN THE MATTER OF THE CLAIM OF

FRANCO-AMERICAN EDUCATIONAL SOCIETY  
OR, THE AMERICAN PROVINCES OF THE  
MARIST BROTHERS OF THE SCHOOLS

Claim No CU -3475

Decision No. CU -5401

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Doman & San Filippo  
By Augustin J. San Filippo, Esq.

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Appeal and objections from a Proposed Decision entered July 22, 1970.  
Oral hearing requested and cancelled.

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Hearing on the record held September 30, 1971.

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FINAL DECISION

Under date of July 22, 1970, the Commission entered its decision denying this claim for failure of proof. Since that time claimant submitted a copy of its Certificate of Incorporation in Texas in 1918, but no other evidence concerning the property claimed or its value.


The Commission having considered the entire record finds no ground for altering its decision in this matter, and accordingly, the Proposed Decision is affirmed as the Commission's Final Decision in this matter.

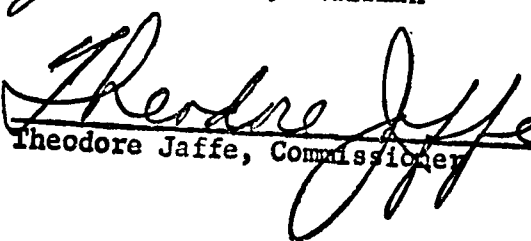
However, it may be noted that if probative evidence is received in support of the claim in sufficient time to permit consideration thereof

before the close of the program on June 30, 1972, the Commission will re-open the claim. Such evidence should be received on or before May 1, 1972 in order to permit adequate consideration thereof.

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

SEP 30 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

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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) (1969).)

The claimant herein has asserted that it was a national of the United States on the date of loss within the meaning of Section 502(1)(B) of the Act; and that it owned property in Cuba, valued at \$11,225,000.00, consisting of educational and religious properties, which was nationalized or otherwise taken by the Government of Cuba.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the

District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

By Commission letter of March 5, 1968, claimant was advised through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, in Commission letters of April 1, 1968, May 3, 1968 and September 30, 1968, claimant was again reminded to submit supporting data, including information or evidence relating to nationality of the claimant and ownership, loss and value of the properties, subject of the claim.


On February 11, 1970, counsel was invited to submit any evidence available to him within forty-five 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 received.


CU-3475

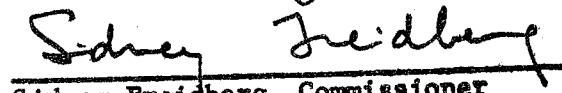
The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership of rights and interests in property which was nationalized, expropriated, or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby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

JUL 22 1970

  
Lyle 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).)

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