

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

IN THE MATTER OF THE CLAIM OF

CARLOS O. ANDARSIO
EVANGELINE ANDARSIO

Claim No. CU-3711

Decision No. CU 229

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, was presented by CARLOS O. ANDARSIO and EVANGELINE ANDARSIO for \$91,219.73, based upon the asserted loss of real and personal property in Cuba, including the Ferreteria Canosa (Canosa Hardware), land and improved real property, furniture, personal effects and insurance policy. Claimant, CARLOS O. ANDARSIO, has been a national of the United States since his naturalization on September 5, 1962.

Claimants stated that EVANGELINE ANDARSIO entered the United States as an immigrant on June 4, 1957, and received Alien Registration Card No. A 10 561 318. In Commission letter of July 7, 1967, the Commission requested additional information with respect to the nationality of this claimant. However, claimants have submitted no additional data to establish that claimant EVANGELINE ANDARSIO acquired United States nationality, or, if she acquired such nationality, the date such nationality was acquired.

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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing claim therefor with the Commission. (See the Claim of Joseph Dallos Hollo, FCSC Claim No. CU-0101).

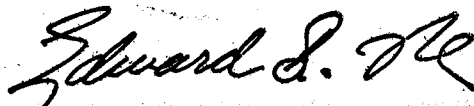
Under the provisions of Section 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimants herein establish that they owned property which was nationalized or otherwise taken by the Government of Cuba, but

they must also establish that some measure depriving them of their interest therein was applied by the Government of Cuba not only after January 1, 1959, but subsequent to the date or dates on which they acquired citizenship of the United States. Claimants have stated that the property in question was nationalized or otherwise taken by the Government of Cuba in 1960, and they have failed to establish that a national or nationals of the United States owned the property at the time of such taking. Accordingly, this claim, filed under the aforesaid provisions of the Act, cannot be compensable thereunder.

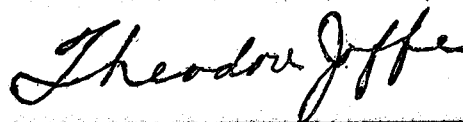
For the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is hereby denied. The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

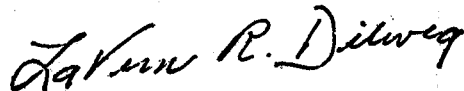
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Edward D. Re, Chairman



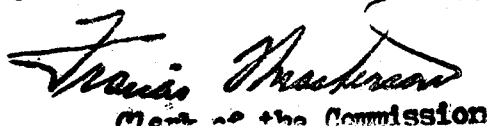
Theodore Jaffe, Commissioner



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).)

This is a true and correct copy of the decision
of the Commission which was entered as the final CU-3711
decision on 8 OCT 1967



Francis MacKinnon
Member of the Commission