

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

IN THE MATTER OF THE CLAIM OF

MANUEL ARECES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1967

Decision No. CU -4533

Counsel for claimant:

Herman Englander, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision issued March 4, 1970 the Commission certified a loss to claimant in the amount of \$38,000.00 based on improved real property taken by the Government of Cuba as of October 14, 1960. The decision also denied an item of claim for a bank account of 5,579.53 pesos. Claimant, through counsel, has now submitted satisfactory evidence in support of this item of claim, and accordingly the Proposed Decision is hereby amended.

The Commission finds that claimant also owned a bank account in the amount of 5,579.53 pesos, having a value of \$5,579.53. Further the Commission finds that the bank account was taken by the Government of Cuba on December 6, 1961, pursuant to its Law 989.

Claimant's losses are summarized as follows:

<u>Item</u>	<u>Date of Taking</u>	<u>Value</u>
Improved realty	October 14, 1960	\$38,000.00
Bank account	December 6, 1961	<u>5,579.53</u>
		\$43,579.53

Accordingly, the certification, as restated below, will be entered and in all other respects the Proposed Decision is affirmed.

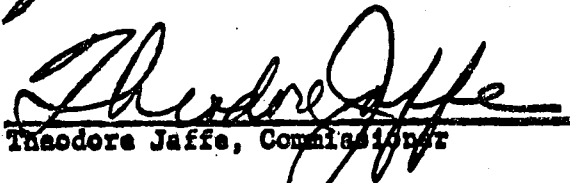
CERTIFICATION OF LOSS

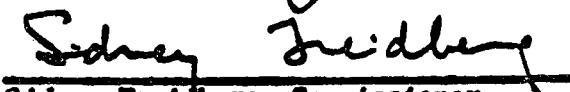
The Commission certifies that MANUEL AREGES suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-three Thousand Five Hundred Seventy-nine Dollars and Fifty-three Cents (\$43,579.53) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

8 APR 1970


Lytle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

CU-1967

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OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MANUEL ARECES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1967

Decision No. CU 4533

Counsel for claimant:

Herman Englander, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$53,579.53 was presented by MANUEL ARECES based upon the asserted loss of improved real property in Marianao, Havana, Cuba, and a bank account in Cuba. Claimant has been a national of the United States since his naturalization on January 28, 1946.

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 contends that he has lost an investment in real property in Cuba valued at \$48,000.00. He describes this property as a two-story, 10-unit apartment house, with two stores at Avenida 21, No. 4618 Almendares, Marianao, Havana.

The record contains copy of contract of sale and report from sources in Cuba which establish that claimant owned such property in Havana, Cuba.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in Havana, Cuba, was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law, and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette.

Accordingly, the Commission concludes that claimant suffered a loss of his real property within the meaning of Title V of the Act.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amounts of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

Claimant has valued his real property at \$48,000, stating that he purchased it for \$38,000, that it had enhanced in value and had a rental income of \$2,700. It appears the improvements were added to the property after 1953 and claimant purchased the realty in 1955.

Based on the entire record, the Commission finds that the land, including improvements, had a value of \$38,000. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$38,000 within the meaning of Title V of the Act, as the result of the taking of his realty by the Government of Cuba as of October 14, 1960.

Claimant also contends that he has lost a bank account in Cuba having a balance of 5,579.53 pesos. No evidence has been submitted in support of this item of claim. Accordingly, this part of the claim is denied.

The Commission has decided that in certification of losses 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.

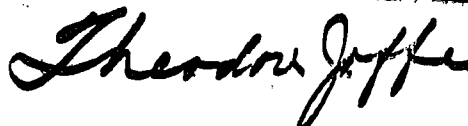
CERTIFICATION OF LOSS

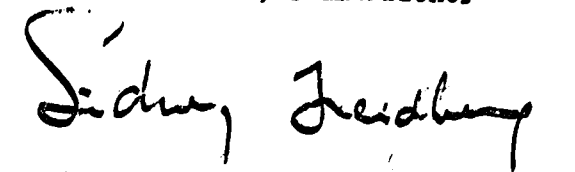
The Commission certifies that MANUEL ARECES suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-eight Thousand Dollars (\$38,000.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

MAR 4 1970


Lyle S. Carlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

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CU-1967