

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

IN THE MATTER OF THE CLAIM OF

GUSTAVO M. BEGUIRISTAIN
JOSE MARIA BEGUIRISTAIN
JOSE ANTONIO BEGUIRISTAIN
RODOLFO ST. MARIE BEGUIRISTAIN
GUSTAVO M. BEGUIRISTAIN, JR.
CLARE E. BEGUIRISTAIN and
RAQUEL V. BEGUIRISTAIN

Claim No. CU-2696

Decision No. CU 6231

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, in the amount of \$117,347.00 was presented on behalf of CLARA GENEVIEVE BEGUIRISTAIN based on the asserted loss of stock interests. The decedent was a national of the United States from birth until her death intestate on November 10, 1970 in Havana, Cuba. She was survived by her spouse and six children.

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.

At the time of her death, the decedent was possessed of certain properties she had acquired by inheritance or by gift. Her interests have been inherited by her six children, with a life estate to her spouse in a 1/7 part. Inasmuch as the claim was owned by a United States national from the time of inception to the date of filing, the children are substituted as claimants herein, (See Claim of Manuela H. Skinner, et al., Claim No. CU-1686.) as well as the decedent's spouse.

Claim was asserted based on the following stock interests:

- (1) 78 shares of Compania de Ferrocarril de Resulta S.A.
- (2) 7175 shares of Compania Agricola Delta S.A.
- (3) 7 shares of Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A.
- (4) 210 shares of Compania Industrial y Agricola de Quemado
- (5) 39 shares of Compania Azucarera Central Resulta
- (6) 17 shares of Cresanta, Compania de Inversiones S.A.
- (7) 10 shares of Compania Inmobiliaria Santa Maria S.A.
- (8) 972 shares of Colonia Reyes S.A.
- (9) 380 shares of Compania Inmobiliaria Beta S.A.

Since all corporations listed above were organized under the laws of Cuba, they do not qualify as corporate "nationals of the United States" defined under Section 502(1)(B) of the Act as corporations or legal entities organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 percent or more in natural persons who are citizens of the United States. In this type of situation it has been held that American stockholders are entitled to file claims for the value of their ownership interest (see Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33).

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The records of the Commission reveal that by Law 890, first published in the Official Gazette on October 13, 1960, the Cuban Government nationalized the following of the above corporations:

- (5) Compania Azucarera Central Resulta, and its affiliates:
 - (1) the Compania de Ferrocarril de Resulta, and
 - (8) Colonia Reyes S.A.
- (4) Compania Industrial y Agricola de Quemado de Guines S.A.
- (3) Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A. (under "Muelles Beguiristain")

On October 14, 1960 the Cuban Government published the Urban Reform Law, and the Commission finds that the assets consisting of office and apartment buildings, and similar type properties of the following corporations were taken on that date:

- (6) Cresanta, Compania de Inversiones S.A.
- (7) Compania Inmobiliaria Santa Maria S.A.
- (9) Compania Inmobiliaria Beta S.A.

On January 12, 1961 the Government of Cuba nationalized (2) Compania Agricola Delta S.A.

In the Claim of Maria Vinas, Claim No. CU-3216, the Commission found that at the time of nationalization or taking the shares of stock had the following value, and the Commission concludes that the decedent suffered the following losses:

<u>Number of Shares Owned</u>	<u>Item</u>	<u>Date of Loss</u>	<u>Value of One Share</u>	<u>Decedent's Loss</u>
78	(1) Ferrocarril Resulta	October 13, 1960	\$ 50.00	\$ 3,900.00
210	(4) Cia. Quemado de Guines	October 13, 1960	65.33	13,719.30
39	(5) Central Resulta	October 13, 1960	2,501.03	97,540.17
972	(8) Colonia Reyes	October 13, 1960	.40	388.80
380	(9) Compania Inmobiliaria Beta	October 14, 1960	100.00	<u>38,000.00</u>
			Total	\$153,548.27

With respect to the claim based upon the shares of stock of (2) Compania Agricola Delta S.A., (6) Cresanta, Compania de Inversiones S.A., (7) Compania Inmobiliaria Santa Maria S.A. and (3) Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A. the

record is insufficient to enable the Commission to place any value on the shares of stock. The portion of the claim relating to the four last-named companies is therefore denied.

It will be noted that the total amount of the loss found herein is in excess of the amount originally asserted by the deceased. However, in determining the amount of the loss sustained, the Commission is not bound by any lesser or greater amount which may be asserted by claimants as the extent thereof.

As stated above, upon the death of CLARA GENEVIEVE BEGUIRISTAIN her six children inherited a 1/7 part of her estate and a 1/6 interest each in the remainder of the seventh part in which her spouse inherited a life estate. The total value of the property taken from the decedent on October 13, 1960 was \$115,548.27 and the value of the property taken on October 14, 1960 was \$38,000. At the time of her death her spouse was 73 years old.

The Commission has adopted as a basis for the valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031-7.) According to that method of valuation, a life estate of a person 73 years old is valued at .23934 of the entire estate. Therefore the life estate in 1/7 of \$115,548.27 was valued at \$3,950.75 and the life estate in 1/7 of \$38,000 was valued at \$1,299.27.

Accordingly, the inherited interests of the claimants are as follows:

	<u>Date of Loss</u>	<u>Value</u>
GUSTAVO M. BEGUIRISTAIN	October 13, 1960	\$ 3,950.75
	October 14, 1960	1,299.27
JOSE MARIA BEGUIRISTAIN	October 13, 1960	18,599.58
	October 14, 1960	6,116.79
JOSE ANTONIO BEGUIRISTAIN	October 13, 1960	18,599.58
	October 14, 1960	6,116.79
RODOLFO ST. MARIE BEGUIRISTAIN	October 13, 1960	18,599.59
	October 14, 1960	6,116.79
GUSTAVO M. BEGUIRISTAIN, JR.	October 13, 1960	18,599.59
	October 14, 1960	6,116.79
CLARE E. BEGUIRISTAIN	October 13, 1960	18,599.59
	October 14, 1960	6,116.79
RAQUEL V. BEGUIRISTAIN	October 13, 1960	18,599.59
	October 14, 1960	<u>6,116.78</u>
		\$153,548.27

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 from the aforesaid dates of loss.

CERTIFICATIONS OF LOSS

The Commission certifies that GUSTAVO M. BEGUIRISTAIN 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 Five Thousand Two Hundred Fifty Dollars and Two Cents (\$5,250.02) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

The Commission certifies that JOSE MARIA BEGUIRISTAIN 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-Four Thousand Seven Hundred Sixteen Dollars and Thirty-Seven Cents (\$24,716.37) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

The Commission certifies that JOSE ANTONIO BEGUIRISTAIN 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-Four Thousand Seven Hundred Sixteen Dollars and Thirty-Seven Cents (\$24,716.37) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

The Commission certifies that RODOLFO ST. MARIE BEGUIRISTAIN 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-Four Thousand Seven Hundred Sixteen Dollars and Thirty-Eight Cents (\$24,716.38) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;


The Commission certifies that GUSTAVO M. BEGUIRISTAIN, JR., 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-Four Thousand Seven Hundred Sixteen Dollars and Thirty-Eight Cents (\$24,716.38) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

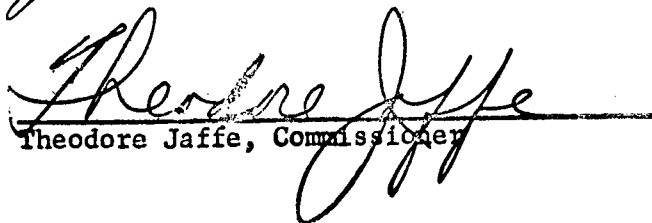
The Commission certifies that CLARE E. BEGUIRISTAIN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Four Thousand Seven Hundred Sixteen Dollars and Thirty-Eight Cents (\$24,716.38) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that RAQUEL V. BEGUIRISTAIN 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-Four Thousand Seven Hundred Sixteen Dollars and Thirty-Seven Cents (\$24,716.37) 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 Proposed
Decision of the Commission

JUN 16 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT. The claimants JOSE MARIA BEGUIRISTAIN, JOSE ANTONIO BEGUIRISTAIN and RODOLFO ST. MARIE BEGUIRISTAIN may be the subject of Certifications of Loss in Claims CU-2177, CU-2705 and CU-3318.

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities or the loss here certified.

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 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 notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

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