

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

IN THE MATTER OF THE CLAIM OF

WILLIAM E. MARTIN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2867  
Claim No. CU -3121

Decision No. CU  
5402

Counsel for claimant:

Abraham J. Harris, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amounts of \$4,700,000.00 and \$33,000,000.00 were presented by WILLIAM E. MARTIN and are based upon the asserted loss of certain interests in Cuban corporations in Cuba. Claimant has been a national of the United States since birth.

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).)

Claimant has described his claim as follows:

- |  |                      |
|--|----------------------|
| 1. 80% interest in Viviendas Individuales Visa, S.A. | \$4,700.000.00       |
| 2. 75% interest in Fomentos y Ventas Garmar, S.A.    | <u>33,000,000.00</u> |
|  | \$37,700,000.00      |

By Commission letter of July 12, 1967, claimant was advised as to the type of evidence proper for submission to establish these claims under the Act.

In support of the claims there has been submitted a copy of Cuban Resolution No. 1955 published February 16, 1960 which, pursuant to Cuban Law 715 of January 22, 1960, confiscated all property, shares and rights of Viviendas Individuales Visa, S.A. and of Fomentos y Ventas Garmar, S.A. In this resolution it is recited that WILLIAM E. MARTIN is indicated as the person who furnished the capital to establish Fomentos y Ventas Garmar, S.A., subsequently turning over 75% of that total of this company to the brother of

CU-2867  
CU-3121

Presidential Secretary apparently as the price for securing Decree No. 1870 of June 11, 1958, concerning certain real property. These stocks with blank endorsement were found in a safe deposit box belonging to the Presidential Secretary. It is also stated that WILLIAM E. MARTIN is listed as President of Vivienda Individuales Visa, S.A.

In addition a sketch which is described as a plat of the properties involved in claim CU-2867 has been submitted.

On December 9, 1968, claimant through counsel was reminded that supporting evidence had not been submitted.

On February 3, 1969, claimant through counsel was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine these claims on the basis of the existing record, and a further reminder was sent on March 20, 1969.

On April 3, 1969, claimant's wife brought in a request for assistance in obtaining evidence. Pursuant to this request a report from abroad in the Spanish language was sent to claimant through counsel on October 27, 1969 requesting a translation.

On December 2, 1969, claimant through counsel was given 30 days to submit the suggested evidence and a further extension was granted on February 18, 1970. This was confirmed to claimant's counsel to whom it was suggested that claimant's wife submit a petition to join in the claims since it appeared that she had an interest therein. On March 13, 1970, claimant's wife requested an extension of 60 days as a last request to submit all evidence. No further reply or evidence has been received.

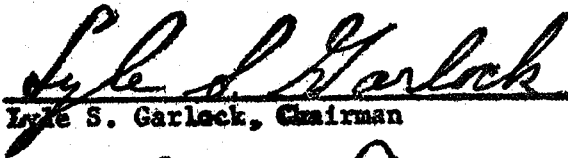
CU-2867  
CU-3121

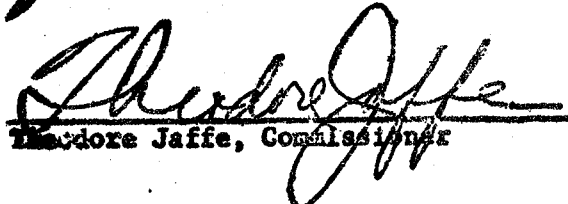
In the absence of evidence on which to base an affirmative decision, the Commission has not alternative but to deny these claims for lack of proof.


The Commission finds that claimant has not met the burden of proof in that he 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 these claims and they are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claims.

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).)

CU-2867 and CU-3121