

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

IN THE MATTER OF THE CLAIM OF

RODOLFO ST. MARIE BEGUIRISTAIN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 3318

Decision No. CU 6233

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 \$176,529.00 was presented by RODOLFO ST. MARIE BEGUIRISTAIN, based upon the asserted loss of shares of stock and cash, confiscated by the Cuban Government. The 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.

Claimant states that he was the owner of the following shares of stock:

- (1) 4 shares of Compania General de Seguros y Fianzas de Sagua la Grande, S.A.
- (2) 78 shares of Compania de Ferrocarril de Resulta S.A.
- (3) 7175 shares of Compania Agricola Delta S.A.
- (4) 200 shares of Compania Industrial y Agricola de Quemado de Guines, S.A.
- (5) 34 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) 100 shares of Compania Inmobiliaria Beta S.A.
- (10) 7 shares of Compania de Almacenamiento y Exportacion de Alcoholes y Mieles, Guasabacoa, S.A.
- (11) 7414 shares of Cia. Azucarera Vertientes-Camaguey de Cuba S.A.

Claimant further states that he owned \$33,101 in American and Cuban currency which Cuban authorities confiscated on November 17, 1960 for alleged violations of currency exchange laws, but failed to return after he was acquitted by the appropriate court.

In support of his claim, claimant submitted an affidavit of his uncle Rogelio Louis Beguiristain who stated that he knows as former executive officer of the corporations listed above under (1) to (10) that claimant was the owner of the shares of stock of the first ten named corporations.

With respect to the confiscation of funds, claimant submitted Resolution No. 1151/62 issued by the Banco Nacional de Cuba after his acquittal ordering that of the confiscated money \$1,000 be returned in cash, \$9,000 placed in a blocked bank account, and the remainder of \$23,101.00 destroyed, in accordance with Cuban Law 964. Claimant, however, contends that no funds were ever returned to him.

With the exception of one certificate for the shares of the Compania Inmobiliaria Santa Maria S.A. claimant was unable to present the stock certificates because they had remained in Cuba and were no longer available to him. Based upon the evidence in the instant claim and upon the entire

record, the Commission finds that claimant was the owner by inheritance of the above-described securities, listed under (1) to (10), but that claimant has failed to establish that he owned the 7,414 shares of the Compania Azucarera Vertientes-Camaguey de Cuba (11).

Since all the corporations listed above under (1) through (10) 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).

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 corporations:

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

On October 14, 1960, the Cuban Government published the Urban Reform Law, and the Commission finds that the assets of the following companies, consisting of office and apartment buildings, building lots and similar type properties 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 (3) Compania Agricola Delta S.A. The Commission finds that claimant's interests in (1) Cia. General de Seguros y Fianzas de Sagua la Grande, S.A., were taken on December 6, 1961, (pursuant to Law 989) at the same time that the other family interests in this company were taken, although this company was not formally nationalized until April 28, 1964.

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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 claimant suffered the following losses:

<u>No. of Shares Owned</u>	<u>Item</u>	<u>Date of Loss</u>	<u>Value of 1 Share</u>	<u>Claimant's Loss</u>
4	(1) Cia. General de Seguros	December 6, 1961	\$205.10	\$ 820.40
78	(2) Ferrocarril Resulta	October 13, 1960	50.00	3,900.00
200	(4) Cia. Quemado de Guines	October 13, 1960	65.33	13,066.00
34	(5) Central Resulta	October 13, 1960	2,501.03	85,035.02
972	(8) Colonia Reyes	October 13, 1960	.40	388.80
100	(9) Inmobiliaria Beta	October 14, 1960	100.00	<u>10,000.00</u>
				\$113,210.22

With respect to the claim based upon the shares of stock of (6) Cresanta Compania de Inversiones S.A., (3) Compania Agricola Delta S.A., (7) Compania Inmobiliaria Santa Maria S.A. and (10) 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. With respect to the shares of stock of (11) Compania Azucarera Vertientes-Camaguey de Cuba the Commission finds that claimant has failed to sustain the burden of proof in establishing that he was, in fact, the owner of 7,414 shares of that company. The portion of the claim relating to these five companies is therefore denied.

Further, the Commission finds that claimant owned \$33,101.00 in United States and Cuban currency (the Cuban peso and United States dollar being considered at par) which the Government of Cuba confiscated on November 17, 1960. Although he was acquitted of any violation of the Cuban currency exchange laws, no funds were returned to him. The Commission concludes that this action constituted a taking of property by the Cuban Government and that as a result claimant suffered an additional loss within the scope of Title V of the Act in the amount of \$33,101.00.

Accordingly, claimant suffered a total loss in the amount of \$146,311.22.

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, as follows:


<u>FROM</u>	<u>ON</u>
October 13, 1960	\$102,389.82
October 14, 1960	10,000.00
November 17, 1960	33,101.00
December 6, 1961	<u>820.40</u>
	\$146,311.22

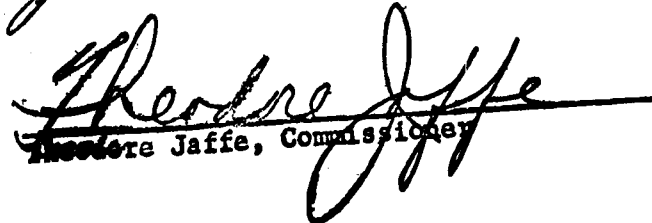
CERTIFICATION OF LOSS

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 One Hundred Forty-Six Thousand Three Hundred Eleven Dollars and Twenty-Two Cents (\$146,311.22) 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: This claimant may be the subject of another certification of loss in CU-2696 involving asserted losses not covered under this Proposed Decision.

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

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