

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

IN THE MATTER OF THE CLAIM OF

THE FLORIDA NATIONAL BANK
AND TRUST COMPANY AT MIAMI,
Executor of the Estate of
VELMA C. SCHRAMM, Deceased

Claim No. CU -4453

Decision No. CU 6182

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Schwarz & Cohen
By Bart L. Cohen, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$100,000.00, was opened by the Commission on behalf of the deceased who was then outside the United States. Subsequent to her return to the United States, VELMA C. SCHRAMM died, and a formal claim was presented by THE FLORIDA NATIONAL BANK AND TRUST COMPANY AT MIAMI, Executor of the Estate of VELMA C. SCHRAMM, Deceased, based upon the asserted loss of real and personal property in Cuba. Claimant states that the deceased was a national of the United States.

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.

Claimant states that the decedent had been a national of the United States from birth until her death on November 8, 1969, and that it once possessed the decedent's United States passport showing that fact. It appears, however, that claimant returned the passport to the Department of State and that it did not record the passport number.

Claimant asserts that the decedent owned certain real property in Nueva Gerona, Isle of Pines, Cuba, consisting of 40 acres of land along the Casas River, improved by a main house and two cottages. It is further asserted that the decedent also owned certain furniture and furnishings situated in the main house, which was her residence in Cuba, and in the two cottages. The official claim form recites a taking of the foregoing properties in December 1967 and a valuation thereof in the amount of \$100,000.00, without indicating the value of any of the items of property claimed.

The following evidence was submitted in support of this claim:

1. A statement of October 24, 1967 from Mr. A. Carey, a first cousin of the decedent, who had visited her in Cuba. His recollection is that the decedent owned 40 acres of land about one-half mile from Nueva Gerona, Isle of Pines, Cuba, improved by a main house with three bedrooms and two bathrooms, furnished, and two concrete block cottages, also

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furnished; and that the decedent's husband who died in 1956 had introduced to the Isle of Pines the African grass, Pangola, which was beneficial to his herd of 10 cattle.

2. A copy of a statement of June 4, 1969 from the decedent, referring primarily to other property not claimed herein. The only notation of the deceased concerning the properties which are the subjects of this claim is to the effect that she left in Cuba the deed to her farm and an appraisal of her farm.

3. An unsigned, undated list of the furnishings of the main house and the two cottages without valuations.

4. An affidavit of July 7, 1970 from Maria Victoria Anderson, who served the decedent for the last 19 years prior to her death. Affiant states that the decedent owned a 35-acre farm on the Isle of Pines, Cuba; the farm included a furnished residence of 10 rooms and two furnished cottages of three rooms each; that the farm had been acquired by 1940; and that in 1956 the deceased had stated that the property as a whole was worth about \$100,000.00.

The Regulations of the Commission provide:

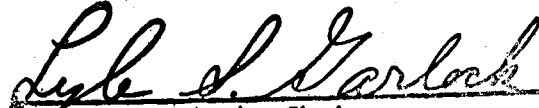
The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d)(1970).)

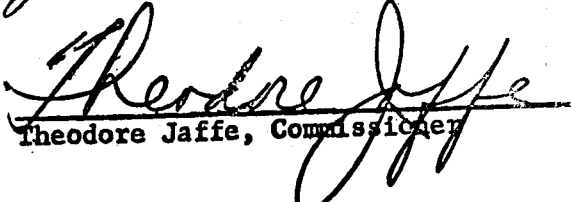
The Commission finds that claimant has failed to sustain the burden of proof. The evidence is not sufficiently probative to establish that the decedent owned the properties in question, and that her claim was owned by nationals of the United States at the pertinent times.

Accordingly, this claim is denied in its entirety. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

MAY 5 1977


Lyle S. Garlock, Chairman


Theodore Jaffe, 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 (1970).)

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