

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

IN THE MATTER OF THE CLAIM OF

ELIAS CESIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -4773

Decision No. CU -5898

Counsel for claimant:

Everett J. Santos, Esq.

FINAL DECISION

Under date of October 14, 1970, the Commission denied this claim because of failure of proof.

Claimant, a national of the United States since his naturalization on April 6, 1953, has since submitted through counsel evidence as to his properties in Cuba, from which he returned on March 19, 1970. The record also includes a record of telephone conversation with counsel.

The claim form as filed by claimant was in a total amount of \$21,000 although elsewhere in the form the claim totaled \$25,000. A sworn statement executed by claimant totaled \$21,076.77, whereas a second claim form totaled \$27,276.76.

By letter of November 2, 1970, counsel was invited to submit evidence establishing the higher values asserted. No response has been received to this.

On the basis of the entire record, the Commission finds that the plot of land had a value of \$3,000; the two-bedroom house with living room, dining room, terrace, patio and all facilities had a value of \$9,000; the personal property including an automobile had a value of \$3,000; and his savings accounts totaled \$6,076.77..

On December 6, 1961 the Cuban Government published its Law 989 which effected confiscation of properties of persons who left Cuba. The record establishes that claimant arrived in the United States on March 19, 1970.

Accordingly, the Commission finds that claimant's property in Cuba was taken by the Government of Cuba on March 19, 1970, and that he thereby suffered a loss of \$21,076.77 within the scope of Title V of the Act.

It may be noted that if probative evidence is received as to the greater value asserted, in sufficient time to permit consideration thereof before the close of the program on June 30, 1972, the Commission will reopen the claim. Such evidence should be received on or before May 1, 1972 in order to permit adequate consideration thereof.

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.

Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision as amended herein, is affirmed.

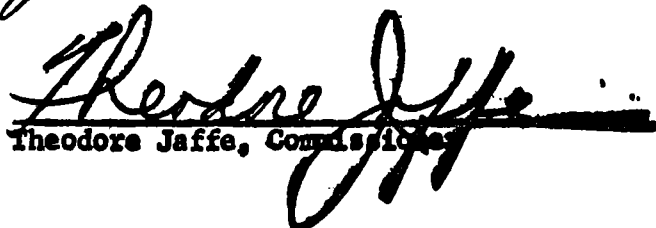
CERTIFICATION OF LOSS

The Commission certifies that ELIAS CESIN 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-One Thousand Seventy-Six Dollars and Seventy-Seven Cents (\$21,076.77) with interest at 6% per annum from March 19, 1970 to the date of settlement.

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

SEP 1 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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.

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PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was opened by the Commission on behalf of ELIAS CESIN, when outside of the continental United States. Thereafter claimant specified a claim in the amount of \$25,000 based on improved realty, personalty and a bank account. Claimant stated that he has been a national of the United States since naturalization on April 6, 1956.

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) (1969).)

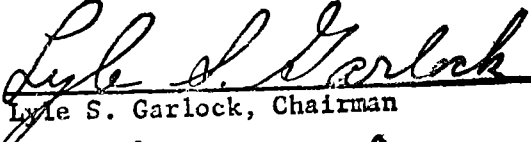
At the request of the claimant, the Commission recovered documentation he had left in a private depository. It was suggested on June 9, 1970 that he submit any of this, which would support his claim, with appropriate translation. However, no evidence in response to this correspondence has been received to date.

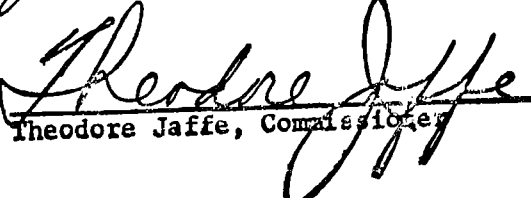
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by

>
> the Government of Cuba from a national of the United States. Thus, the
Commission is constrained to deny this claim and it is hereby denied.
>
> 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

OCT 14 1970


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, 32 Fed. Reg. 412-13 (1967).)