

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

IN THE MATTER OF THE CLAIM OF

BRIGIDA G. SALMON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -8442

Decision No. CU **5901**

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 for the claimant, BRIGIDA G. SALMON. Claimant now asserts losses in the amount of \$165,000.00, based upon the asserted loss of certain property 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) (1969).)

Claimant asserts that she owned a home in Oriente, Cuba, including household furnishings therein, and an interest in a department store in Sagua de Tanamo, Oriente, Cuba. She asserts that the Government of Cuba took five motor vehicles and a diesel engine in 1961 and the house, household furnishings and the merchandise of the store in May, 1964.

By Commission letter of August 21, 1969, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act, including an offer to assist her in obtaining evidence.

Claimant has submitted her signed claim form and a request that the Commission assist in obtaining evidence. This has been appropriately processed, but there is no certainty that any report will be received. On March 31, 1970 claimant was asked to submit whatever evidence she had

including a copy of the partnership agreement, evidence of the inventory of the store, and a list of the furnishings and other personal property including the motor vehicles and machinery. Claimant submitted no evidence but suggested that the Commission independently contact an individual in Cuba for this evidence.

By Commission letter of April 15, 1970 claimant was informed that this could not be done and was asked to submit the suggested evidence within 20 days. Subsequently claimant submitted two short affidavits which state the affiants have known claimant and her husband for over twenty years and that the husband was the owner of a department store and a house.


On September 2, 1970 claimant was reminded that except for the two short affidavits none of the evidence and information suggested in the Commission letter of March 31, 1970 had been submitted, and she was informed that absent such evidence, it might become necessary to determine the claim on the basis of the existing record. Claimant has submitted another affidavit from an individual who states that he knew the husband of claimant since 1930 and that the firm Pareda Salmon and Co. had annual earnings of more than \$250,000.00 "in coffee grinds". No supporting evidence was offered, however.

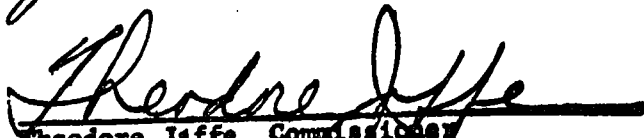
The Commission has considered the entire record but finds the evidence not sufficiently probative to permit findings that would be other than speculative. In the absence of sufficiently probative evidence on which to base an affirmative decision, the Commission has no alternative but to deny this claim for lack of proof.

The Commission finds that claimant has not met the burden of proof in that she 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 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).)