

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

IN THE MATTER OF THE CLAIM OF

HELEN J. HARZ
ROLAND C. HARZ, JR.
and
WILLIAM H. HARZ

Claim No. CU -0640

Decision No. CU -3515

Under the International Claims Settlement
Act of 1948, as amended

AMENDED PROPOSED DECISION

By Proposed Decision issued February 12, 1969 the Commission denied this claim against the Government of Cuba, filed under Title V, which had been presented by HELEN J. HARZ and ROLAND C. HARZ, SR., who thereafter died on June 15, 1967.

Additional evidence having been submitted, the decision is hereby amended.

The Commission now finds that ROLAND C. HARZ, SR. was the owner since prior to November 23, 1959, of 200 units of participation in the Cuban Venezuelan Oil Voting Trust, whose properties were nationalized or otherwise taken by the Government of Cuba on November 23, 1959 (See Claim of Felix Heyman, Claim No. CU-0412, 1968 FCSC Ann. Rep. 51). That decision held that each unit had a value of \$.11971. Accordingly, ROLAND C. HARZ, SR., now deceased, suffered a loss of \$23.94 within the meaning of Title V of the Act. Upon his death intestate in 1967, his claim was inherited in equal parts by his widow, HELEN J. HARZ, and his children, ROLAND C. HARZ, JR. and WILLIAM H. HARZ who are added as claimants in this matter.

So much of the claim as is based on 400 participation units of Cuban Venezuelan Oil Voting Trust, owned jointly by HELEN J. HARZ and ROLAND C. HARZ, SR., now deceased, remains denied as the record does not reflect

the date of acquisition of this interest evidenced by a certificate issued in 1964, nor the consideration paid therefor, which the Commission is required to consider under Section 507(b) of the Act.

The Commission has decided that in certification of losses 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 this case it is so ordered.

Accordingly, the following Certifications of Loss will be entered and in all other respects the Proposed Decision is affirmed:

CERTIFICATIONS OF LOSS

The Commission certifies that HELEN J. HARZ succeeded to and 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 Seven Dollars and Ninety-Eight Cents (\$7.98) with interest at 6% per annum from November 23, 1959 to the date of settlement; and

The Commission certifies that ROLAND C. HARZ, JR. succeeded to and 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 Seven Dollars and Ninety-Eight Cents (\$7.98) with interest at 6% per annum from November 23, 1959 to the date of settlement; and

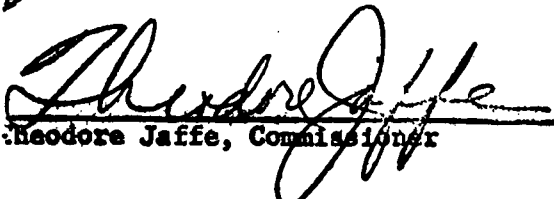
CU-0640

The Commission certifies that WILLIAM H. HARZ succeeded to and 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 Seven Dollars and Ninety-Eight Cents (\$7.98) with interest at 6% per annum from November 23, 1959 to the date of settlement.

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

APR 18 1970


S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freiberg, Commissioner

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

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

IN THE MATTER OF THE CLAIM OF

ROLAND C. HARZ, SR., DECEASED
and
HELEN J. HARZ

Claim No. CU -0640

Decision No. CU

3515

Under the International Claims Settlement
Act of 1949, as amended

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 \$1,200.00, was presented by ROLAND C. HARZ, SR. (now deceased) and HELEN J. HARZ and is based upon the asserted loss of participation interests in the Cuban-Venezuelan Oil Voting Trust. Claimant HELEN J. HARZ has been a national of the United States since birth, as was ROLAND C. HARZ, SR., now deceased.

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).)

The record reflects that ROLAND C. HARZ, SR., was the owner of 200 units of participation in the Trust, evidenced by certificates issued to him in 1957. Further, ROLAND C. HARZ, SR., and HELEN J. HARZ were the joint owners of 400 units of the Trust, evidenced by a certificate issued to them in 1964.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Commission finds that claimants, as an assignee by purchase, acquired the claim for the loss sustained by the assignor of the claimed securities, but with respect to the 400 shares apparently acquired in 1964 under the limitations provided in Section 507 of the Act (supra), is limited to the actual consideration paid for these 400 shares.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on November 23, 1959. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

In this case, however, the Commission has been informed that ROLAND C. HARZ, SR., died in 1967. The Commission has by letters of November 14, 1968 and January 16, 1969, attempted to ascertain both

the facts as to his heirs, and the date of purchase and price paid for the 400 shares represented by a certificate issued in 1964. The replies received are not responsive. Consequently, the Commission is unable to determine from the record who has inherited the interest of ROLAND C. HARZ, SR., and moreover, cannot certify the interest of HELEN J. HARZ in any part of the 400 shares because of lack of information as to the price paid.

The Commission finds that claimant HELEN J. HARZ, and any heirs of ROLAND C. HARZ, SR. have not met the burden of proof in that they have 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

FEB 12 1969

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

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