

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

IN THE MATTER OF THE CLAIM OF

JIM BREWER, CHARLIE ALTHANS and
HARRY W. GAMBLE, EXECUTORS OF THE
ESTATE OF ELIZE MAY ABBOTT, DECEASED

Claim No. CU-1100

Decision No. CU -5852

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Gamble & Gamble
By Harry W. Gamble, Esq.

SECOND AMENDED PROPOSED DECISION

Under date of April 7, 1971, the Commission issued its Amended
Proposed Decision certifying losses in favor of claimants for the sole
use and benefit of the following beneficiaries:

Ruby May LaGroue	\$17,485.12
Alice May Brewer	17,485.12
James Brewer	3,642.73
Betty LaGroue Ott	3,642.73
F. W. Brewer	3,642.73
Betty Rose Moon	2,185.64
T. W. Garrett, Sr.	1,821.37
Spencer Garrett	1,821.37
Jill Elize Garrett	1,457.09
Julia Luck, Pattie Luck, and Susan Luck, in equal shares	1,457.09
Laura Abbott Babylon	4,371.28
Alice Abbott	4,371.28
Bessie A. Davis	1,457.09
Shirley B. Althans	2,185.64
Fred Hendrichs	728.55
Albert Abbott	728.55
Alva G. Curent-Garcia	1,092.82
Billie G. Johansen	1,092.82
Total	<u>\$70,669.02</u>

One other beneficiary, Kitty A. Hinrichs, was not shown to have been a United States national at all pertinent times and no certification of loss was entered in her favor. Subsequently, new evidence was submitted concerning the eligibility of Kitty A. Hinrichs.

Upon consideration of the new evidence, it is

ORDERED the Amended Proposed Decision of April 7, 1971 be further amended as follows:

The Commission now finds that Kitty A. Hinrichs, a national of the United States from birth until her death on November 11, 1967, succeeded to a 3% interest in the Estate of Elize May Abbott, Deceased; that Kitty A. Hinrichs died testate; that her interest was inherited by her son, Henry John Hinrichs, a national of the United States since birth, and that the interest to which he succeeded had a value of \$2,185.64 on October 14, 1960, the date of loss.

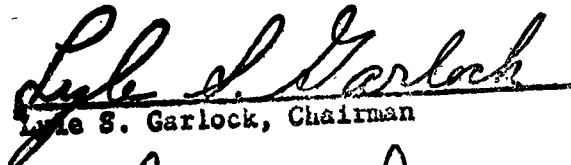
Accordingly, the following additional Certification of Loss will be entered, and in all other respects the Amended Proposed Decision is affirmed.

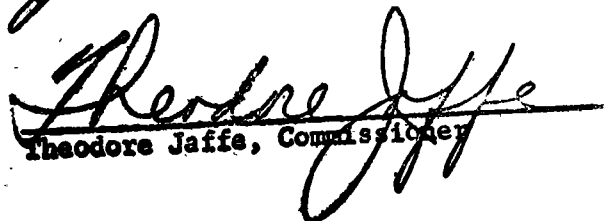
CERTIFICATION OF LOSS

The Commission certifies that JIM BREWER, CHARLIE ALTHANS and HARRY W. GAMBLE, EXECUTORS OF THE ESTATE OF ELIZE MAY ABBOTT, DECEASED, 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 Two Thousand One Hundred Eighty-Five Dollars and Sixty-Four Cents (\$2,185.64) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement for the sole use and benefit of Henry John Hinrichs.

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

MAY 5 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.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Second Amended 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).)

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

IN THE MATTER OF THE CLAIM OF

JIM BREWER, CHARLIE ALTHANS and
HARRY W. GAMBLE, EXECUTORS OF THE
ESTATE OF ELIZE MAY ABBOTT, DECEASED

Claim No. CU-1100

Decision No. CU -5852

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Gamble & Gamble
By Harry W. Gamble, Esq.

AMENDED PROPOSED DECISION

Under date of September 16, 1970, the Commission issued its Proposed Decision denying this claim because the evidence did not establish that the claim had been owned by nationals of the United States from the date it arose until the date of filing with the Commission, a prerequisite for favorable action pursuant to Section 504(a) of the Act. Subsequently, new evidence was submitted concerning the nationality of the beneficiaries of the ESTATE OF ELIZE MAY ABBOTT, DECEASED.

Upon consideration of the entire record, it is

ORDERED that the Proposed Decision be amended as follows:

The Commission now finds that the following individuals, identified with relation to the deceased, inherited interests in the estate, as indicated, pursuant to the Will of the deceased:

Ruby May LaGroue, sister	24%
Alice May Brewer, sister	24%
James Brewer, nephew	5%
Betty LaGroue Ott, niece	5%
F. W. Brewer, nephew	5%

Betty Rose Moon, greatniece	3%
T. W. Garrett, Sr., nephew	2-1/2%
Spencer Garrett, nephew	2-1/2%
Jill Elize Garrett, greatniece	2%
Julia Luck, Pattie Luck, and Susan Luck, greatnieces, in equal shares	2%
Laura Abbott Babylon, sister-in-law	6%
Alice Abbott, sister-in-law	6%
Kitty A. Henrichs, sister-in-law	3%
Bessie A. Davis, sister-in-law	2%
Shirley B. Althans, husband's niece	3%
Fred Hendrichs, husband's greatnephew	1%
Albert Abbott, brother-in-law	1%
Alva G. Curent-Garcia, husband's niece	1-1/2%
Billie G. Johansen, husband's niece	1-1/2%

The Commission further finds that all of the foregoing beneficiaries, with the exception of Kitty A. Henrichs, have been nationals of the United States at all pertinent times.

In the Claims of William H. Sutter and Mildred R. Immel, Claim Nos. CU-2399 and CU-2421, the Commission found that certain improved real properties at 309 Salud Street and at 313 Salud Street, Havana, Cuba, had been taken by the Government of Cuba on October 14, 1960, and that the aggregate value of the properties on the date of loss was \$218,564.00. The Commission finds that ELIZE MAY ABBOTT, now deceased, had owned a 1/3 interest therein and that it had a value of \$72,854.67. Accordingly, the values of the inherited interests were as follows:

24%	\$17,485.12
6%	4,371.28
5%	3,642.73
3%	2,185.64
2-1/2%	1,821.37
2%	1,457.09
1-1/2%	1,092.82
1%	728.55

The Commission finds that all of the above beneficiaries, except Kitty A. Henrichs, succeeded to losses in the amounts indicated within the meaning of Title V of the Act.

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 this case it is so ordered.

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

CERTIFICATION OF LOSS


The Commission certifies that JIM BREWER, CHARLIE ALTHANS and HARRY W. GAMBLE, EXECUTORS OF THE ESTATE OF ELIZE MAY ABBOTT, DECEASED, 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 Seventy Thousand Six Hundred Sixty-nine Dollars and Two Cents (\$70,669.02) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement for the sole use and benefit of the following:

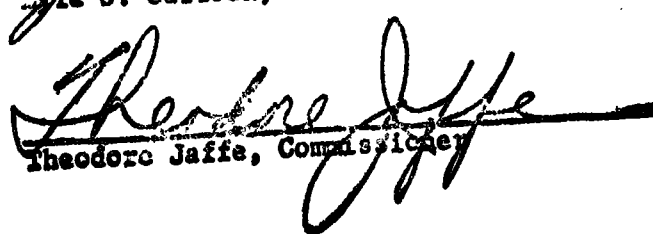
Ruby May LaGroue	\$17,485.12
Alice May Brewer	17,485.12
James Brewer	3,642.73
Betty LaGroue Ott	3,642.73
F. W. Brewer	3,642.73
Betty Rose Moon	2,185.64
T. W. Garrett, Sr.	1,821.37
Spencer Garrett	1,821.37
Jill Elize Garrett	1,457.09
Julia Luck, Pattie Luck, and Susan Luck, in equal shares	1,457.09

Laura Abbott Babylon	\$ 4,371.28
Alice Abbott	4,371.28
Bessie A. Davis	1,457.09
Shirley B. Althans	2,185.64
Fred Hendrichs	728.55
Albert Abbott	728.55
Alva G. Curent-Garcia	1,092.82
Billie G. Johansen	<u>\$ 1,092.82</u>
Total	<u>\$70,669.02</u>

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

APR 7 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.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended 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).)

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

IN THE MATTER OF THE CLAIM OF

JIM BREWER, CHARLIE ALTHANS and
HARRY W. GAMBLE, EXECUTORS OF THE
ESTATE OF ELIZE MAY ABBOTT, DECEASED

Claim No. CU -1100

Decision No. CU 5852

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Gamble & Gamble
By Harry W. Gamble, 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 amended amount of \$72,855.00, was presented by JIM BREWER, CHARLIE ALTHANS and HARRY W. GAMBLE, EXECUTORS OF THE ESTATE OF ELIZE MAY ABBOTT, DECEASED, based upon the asserted loss of an interest in certain improved real property in Cuba. The deceased had been a national of the United States from birth until her death on October 10, 1964.

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.

It appears from the evidence of record that the deceased acquired a one-third interest in certain improved real property in Havana, Cuba. It further appears that this property was within the purview of the Cuban Urban Reform Law, published in the Cuban Official Gazette on October 14, 1960. In the absence of evidence to the contrary, the Commission finds that the improved real property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) As a result thereof, the deceased sustained a loss within the meaning of Title V of the Act.

Pursuant to the will of the deceased, her claim against the Government of Cuba was inherited by 21 legatees in certain specified proportions. Inasmuch as the deceased died prior to the date of filing of this claim with the Commission, Section 504(a) of the Act applies. That section provides as follows:

(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.

Accordingly, it was necessary to ascertain the nationality of the 21 legatees. With respect to that issue, counsel stated as follows under date of July 29, 1969:

The beneficial owners are Charlie Althans, Jim Brewer and Harry W. Gamble and all three are American citizens. Under decedent's will this property was bequeathed to Charlie Althans, Jim Brewer and Harry W. Gamble, Executors of her will, to be sold by them and distributed as set forth in her will.

"Item Nine" of the will, pursuant to which the deceased's claim was devised, recites: "I do hereby give, devise and bequeath to the following named persons and in the respective stated proportions, to be delivered and distributed to them by my executors . . ." That provision also authorized the executors to convert the property into cash and distribute it accordingly.

Under date of July 30, 1970, the Commission informed counsel that an examination of the will indicated that the named beneficiaries were the owners of the property in question, the duty of the executors being merely to sell the property and distribute the proceeds to the said beneficiaries. It was further suggested, therefore, that appropriate evidence be submitted to establish whether any or all of the beneficiaries were nationals of the United States. No response has been received to date. The Commission has held consistently that the nationality test prescribed by Section 504(a) of the Act applies to the beneficial owners of a claim. (See Claim of the Estate of Francisco Hidalgo Gato, Deceased, Claim No. CU-0587.)

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).)

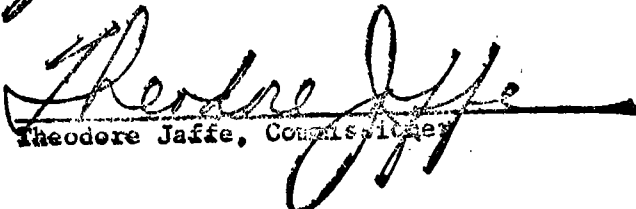
CU-1100

The Commission finds that claimants have failed to sustain the burden of proof with respect to this claim. The record does not establish that this claim was owned by nationals of the United States continuously from October 14, 1960, the date of loss, until the date of filing with the Commission. Accordingly, this claim is denied in its entirety.

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

SEP 16 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).)