

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

IN THE MATTER OF THE CLAIM OF

ABRAMS ALBERT TRUNKS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1521

Decision No. CU 5917

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, for an unknown amount, was presented by ABRAMS ALBERT TRUNKS for an asserted loss based on certain stock interests in Cuba. Claimant has been a national of the United States since his naturalization on September 25, 1943.

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).)

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 claim as presented was based on 500 shares of Cia. Azucarera Ver-
tientes Camaguey de Cuba and 2500 shares of Havana Lithographing Co. In a
letter prior to filing claim, Mr. Trunks also referred to 500 shares of
Consolidated Railroads of Cuba preferred and 1,000 shares of Cuba Railroad
Co. preferred. That letter was accompanied by a statement of security
account with Merrill Lynch, Pierce, Fenner & Smith, Inc., dated March 31, 1967
indicating that all the above shares were then held for this claimant.

In a letter of June 6, 1967, it was suggested that claimant submit evidence of ownership, as the original securities; and further inform the Commission if he were claiming the Railroad securities. Claimant then submitted a statement of account dated May 26, 1967 reflecting the holding of the 500 Consolidated Railroad, the 1,000 Cuba Railroad preferred and 2,500 Havana Lithograph.

By letter of July 12, 1967 it was suggested claimant submit evidence establishing the dates of stock purchases and consideration paid. No reply was received and on May 20, 1968, the Commission again addressed claimant and furnished him with a blank form which could be used by his broker to affirm the identity of stock, date of purchase and consideration paid. Claimant submitted the forms completed in the name of Merrill Lynch, executed in Florida, with an illegible signature, reflecting the purchase on May 4, 1964 of 500 Cuba Railroad preferred, the purchase on May 13, 1964 of 500 more of this stock, and purchases on November 12, 1964 and April 14, 1966 of 250 (500 total) of the same stock.

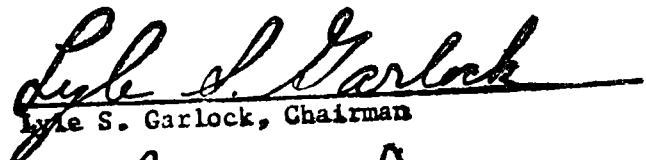
On February 4, 1970, the Commission addressed the claimant setting out what the basis of the claim appeared to be, namely four different stock interests, providing the dates of loss in connection therewith, pointing out that the affidavit submitted indicates purchases of 1500 Cuba Railroad preferred whereas he claimed only 1,000 thereof, as well as 500 Consolidated. It appeared that the affidavit included some inadvertent error, but the Commission cannot make any assumption in this connection and suggested a new and correct affidavit; as well as evidence as to date of purchase and consideration paid for the Vertientes and Havana Lithographing stock interests. Additional blank forms were sent claimant for his assistance in this connection.

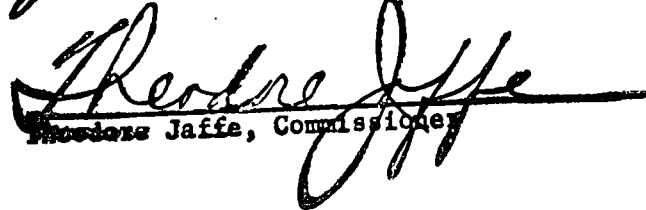
On August 11, 1970, claimant was invited to submit the suggested evidence within 45 days from that date, and he was informed that absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No such evidence has been submitted.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish the dates of acquisition and consideration paid for ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba, as required by the Act. 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 21 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).)