

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

IN THE MATTER OF THE CLAIM OF

JOSEPH YOUNGER
AND
RUTH S. YOUNGER

Claim No. CU -3133

Decision No. CU -3027

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Dubbin, Schiff, Berkman &
Dubbin by Paul E. Gifford,
Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JOSEPH YOUNGER and RUTH S. YOUNGER and is based upon the asserted loss of \$16,546.45, sustained in connection with the asserted aggregate ownership of 2,000 shares of stock of Cia. Azucarera Vertientes-Camaguey de Cuba. Claimants have been nationals of the United States since their respective births.

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.

On the basis of evidence of record the Commission finds that since prior to August 6, 1960 JOSEPH YOUNGER has been the owner of 1,500 shares of stock of Vertientes Camaguey Sugar Co., and that similarly RUTH S. YOUNGER has owned 100 shares of such stock; and both claimants jointly own 300 shares of such stock. It further appears that JOSEPH YOUNGER had owned an additional 100 shares of Vertientes Stock but sold this on September 26, 1967. The record does not reflect, however, that JOSEPH YOUNGER retained his interest in the claim against Cuba when he divested himself of the stock ownership of that 100 shares. Accordingly, so much of the claim as may be based on that 100 shares is denied.

The record discloses that Cia. Azucarera Vertientes-Camaguey de Cuba was listed as nationalized in Resolution No. 1 (pursuant to Law 851), published in the Cuban Official Gazette on August 6, 1960. This corporation was organized under the laws of Cuba and does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held previously that a stockholder in such a corporation is entitled to file a claim based upon the stock in question which represents an ownership interest in the assets of a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33).

In determining the value of the interest owned by claimants in Cia. Azucarera Vertientes-Camaguey de Cuba, the Commission has considered the appraisals by Parajon e Hijo, balance sheets for the years 1957, 1958, 1959 and 1960, the annual reports to stockholders for those years, and other evidence of record submitted by the Company. On the basis of the entire record, the Commission concludes that the dollar loss sustained by Cia. Azucarera Vertientes-Camaguey on August 6, 1960, was \$66,990,148.48, and the loss per share for each of the 1,443,921 shares of common stock was \$46.3946.

Accordingly, in the instant claim, the Commission finds that claimant JOSEPH YOUNGER as holder of 1,500 shares of common stock of Cia. Azucarera Vertientes-Camaguey de Cuba suffered a loss in the amount of \$69,591.90, that RUTH S. YOUNGER suffered a loss of \$4,639.46, and that both claimants jointly suffered a loss of \$13,918.38, all within the meaning of Title V of the Act, as a result of the nationalization of Cia. Azucarera Vertientes-Camaguey de Cuba by the Government of Cuba on August 6, 1960. (See Claim of Ruth Anna Haskew, Claim No. CU-0849).

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimants as the extent thereof.

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).

Accordingly, the Commission concludes that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from August 6, 1960, the date of loss, to the date on which provisions are made for the settlement thereof.

The Commission certifies that JOSEPH YOUNGER 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 Sixty-Nine Thousand Five Hundred Ninety-One Dollars and Ninety Cents (\$69,591.90) with interest at 6% per annum from August 6, 1960 to the date of settlement; and

the Commission certifies that RUTH S. YOUNGER 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 Four Thousand Six Hundred Thirty-Nine Dollars and Forty-Six Cents (\$4,639.46) with interest at 6% per annum from August 6, 1960 to the date of settlement; and

the Commission certifies that JOSEPH YOUNGER and RUTH S. YOUNGER jointly 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 Thirteen Thousand Nine Hundred Eighteen Dollars and Thirty-Eight Cents (\$13,918.38) with interest at 6% per annum from August 6, 1960 to the date of settlement.

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

SEP 11 1968

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

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Froidberg
Sidney Froidberg, 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).)

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 claimants establish retention of the securities for 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.