

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

IN THE MATTER OF THE CLAIM OF

HELEN REINITZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3410

Decision No. CU - 977

Counsel for claimant:

Raymond Herzog, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision issued January 17, 1968, the Commission denied the claim of HELEN REINITZ, a national of the United States since her naturalization on November 10, 1947, for the reason that claimant had failed to establish ownership in property which was nationalized, expropriated or otherwise taken by the Government of Cuba.

Claimant objected to the Proposed Decision and submitted additional evidence. On the basis of the new evidence and the entire record, the Commission now finds that claimant was the owner of a .60% partnership interest in two commercial companies in Havana, Cuba, conducted under the name of Lengyel and Mallin, located at the Cristina Railroad Yards of the Consolidated Railroads of Cuba. The two firms were engaged in the purchase and sale of scrap iron, scrap metal, rags and other waste material.

In our decision entitled the Claim of Albert M. Mallin, et al., (Claim No. CU-0287 which we incorporate herein by reference), we held that the properties owned by these Companies were intervened or otherwise taken by the Government of Cuba on August 17, 1961, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value of Mallin & Lengyel as \$47,292.00 and the value of Lengyel & Mallin as \$24,490.00, a consolidated value of \$71,782.00.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Mallin decision; that through her 60% interest in these companies, she suffered a loss in the amount of \$43,069.20 within the meaning of Title V of the Act. Further, the Commission finds 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. (See Mallin, supra.)

Claimant states that the two companies enjoyed a good business reputation in Havana, and that in addition to the physical assets, good will in the amount of \$100,000 should be added to the net worth of the companies. However, no evidence whatsoever has been submitted in support of claimant's assertion that the names of the companies or any product sold by the companies was of such nature that they could be considered as the basis for the evaluation of good will. On the contrary, the evidence reveals that the two companies were in business only since 1942; that they were engaged mainly in the purchase of scrap iron and other waste metals from sugar mills and in the exportation of such products to the United States for smelting purposes. The capital of the partners was very modest, and the circumstances surrounding

the two companies do not suggest that their business practices created any good will which could be evaluated in dollars and cents. Moreover, no good will appears on the statements furnished by the claimants in the listings of the assets and it can be fairly assumed that in the books of the company no good will had been entered as an assets item. The claim for the loss of good will is therefore denied. (See also Claim of Bartlett-Collins Company, Claim No. CU-2192, 1968 FCSC Ann. Rep. 39).

Accordingly, claimant HELEN REINITZ is entitled to certification of losses within the meaning of Title V of the Act in the amount of \$43,069.20.

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).

In view of the foregoing the Proposed Decision is amended to reflect the above findings, the following Certification of Loss will be entered and the Proposed Decision is affirmed in all other respects.


CU-3410

CERTIFICATION OF LOSS

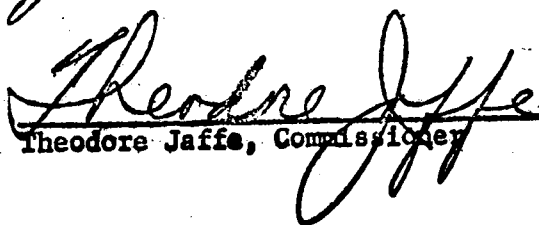
The Commission certifies that HELEN REINITZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1948, as amended, in the amount of Forty-three Thousand Sixty-nine Dollars and Twenty Cents (\$43,069.20) with 6% interest thereon per annum from August 17, 1961, the date of the loss, to the date of settlement.

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

MAY 26 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).)

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Counsel for claimant:

Raymond Herzog, 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 amount of \$102,000.00, was presented by HELEN REINITZ, and is based upon the asserted loss of interests in two partnerships doing business in Cuba. Claimant has been a national of the United States since her naturalization on November 10, 1947.

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).)

Other than the statements set forth in the claim form filed on May 1, 1967, claimant submitted no evidence to establish her claim. Accordingly, by Commission letter of June 27, 1967, suggestions were made to claimant, through counsel, as to the type of additional evidence necessary to establish a compensable claim. Specifically, the Commission suggested that claimant submit additional evidence to establish ownership of an interest in the two partnerships; evidence to establish the nationalization, expropriation, or other taking of the businesses; and evidence to establish the values of the businesses on the date of any action by the Government of Cuba. In reply to this letter, by letter of July 24, 1967, claimant submitted her own affidavit and that of her brother, as well as documents described by claimant as "balance sheets" which represent "approximations" of the value of the assets of the partnerships. No other evidence has been presented.

The Commission finds the evidence of record not persuasive, and concludes 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

JAN 17 1968

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final

Frank M. ...
Clerk of the Commission

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).)