

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

IN THE MATTER OF THE CLAIM OF

BETTY HERTZ

Claim No. CU - 5534

Decision No. CU - 4620

Under the International Claims Settlement
Act of 1949, as amended

Represented by Cia. Azucarera Vertientes-Camaguey de Cuba

Counsel for Cia. Azucarera Vertientes-Camaguey de Cuba: Shapiro, Fried and Weil
By Herbert S. Shapiro, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision issued on March 11, 1970, this claim was denied for failure of proof. Additional evidence has been submitted and the decision is hereby amended.

Claimant, BETTY HERTZ, who owned a stock interest in the Cia. Azucarera Vertientes-Camaguey de Cuba, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of Ruth Anna Haskew (Claim No. CU-0849 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, 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 per share of \$46.3946.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant and her mother Sophie L. Hertz, now deceased, come within the terms of the Haskew decision; and that they were American nationals at the requisite times; that they were the joint

- 2 -

owners of 200 shares of stock in the Cia. Azucarera Vertientes-Camaguey de Cuba since prior to August 6, 1960; and that they suffered a loss in the aggregate amount of \$9,278.92 within the meaning of Title V of the Act; that upon the death of Sophie L. Hertz in 1965, claimant became the sole owner of this claim. 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 Haskew, supra.)

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


CU-5534

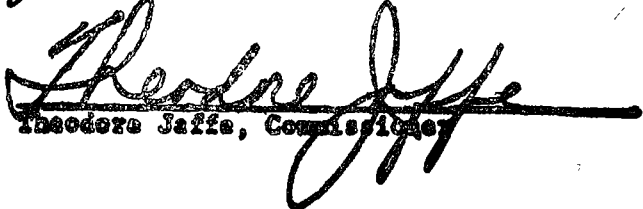
CERTIFICATION OF LOSS

The Commission certifies that BETTY HERTZ 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 Nine Thousand Two Hundred Seventy-Eight Dollars and Ninety-Two Cents (\$9,278.92) with interest at 6% per annum from August 6, 1960 to the date of settlement.

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

OCT 7 1970


Lyle S. Garlock, Chairman


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

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**Under the International Claims Settlement
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Represented by Cia. Azucarera Vertientes-Camaguey de Cuba

Counsel for Cia. Azucarera Vertientes-Camaguey de Cuba:
Shapiro, Fried and Weil
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PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by Vertientes Camaguey Sugar Company on behalf of BETTY HERTZ and is based upon the asserted loss of 200 shares of Vertientes stock. Claimant stated that she has been a national of the United States since birth.

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 claim is based on losses sustained in connection with 200 shares of stock. The certificates issued in 1958 and 1959, have been submitted. They are in the names of BETTY HERTZ and SOPHIE L. HERTZ.

By Commission letter of March 15, 1968, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of July 31, 1968, the Commission made additional suggestions to claimant, through counsel, concerning the submission of supporting evidence in this matter. By letter of September 3, 1968 the Commission again suggested evidence be submitted of the United States nationality of Sophie Hertz, who died on December 27, 1965, subsequent to the date of loss which was August 6, 1960.


On June 30, 1969 claimant, BETTY HERTZ visited the Commission and suggestions as to supporting evidence were made to her. However, such evidence has not been received.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba from a national of the United States, specifically Sophie L. Hertz. 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

11 MAR 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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).)

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