

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

IN THE MATTER OF THE CLAIM OF

Estate of
MARTHA S. NEILL, Deceased

Claim No. CU-5816

Decision No. CU-4648

**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, Esquire

FINAL DECISION

This claim was filed by MARTHA S. NEILL based on the asserted ownership and loss of 200 shares of stock of Vertientes-Camaguey Sugar Company. The loss in connection with this company occurred on August 6, 1960.

In support claimant submitted copy of a 1961 voting registration certificate, which did not establish that she was a national of the United States on the date of loss, nor did the record establish ownership of the stock as asserted.

Several letters to counsel did not produce the needed evidence and the claim was denied on March 18, 1970.

Thereafter there was received to the file copy of a death certificate indicating MARTHA S. NEILL had died on February 3, 1970, prior to the issuance of the Proposed Decision. It was pointed out to the Commission that the Death Certificate recited the birth of the decedent in Wisconsin. Such recitations are not regarded as appropriate evidence of United States nationality. Moreover, it is noted that in the original claim application MARTHA S. NEILL, now deceased, had given her birth date as January 13, 1880 whereas the Death Certificate gives it as January 13, 1879.

Additional suggestions were made to counsel as to establishing ownership of the stock, and United States nationality of the decedent, and identifying the representative of the estate, as by Letters Testamentary or Letters of Administration. Such evidence was not submitted nor was any response received.

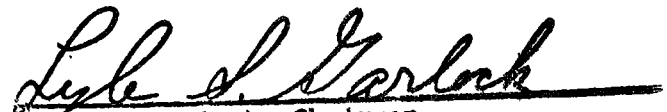
Under these circumstances the Commission is not enabled to change the nature of the decision, but pursuant to Commission Regulation 531.5(j)(1) the Estate of the deceased is substituted as claimant in this matter.

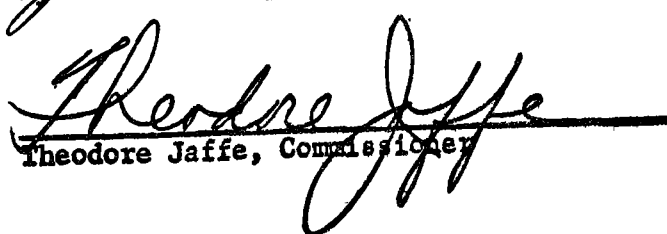
However, it may be noted that if evidence is submitted which would warrant changing the decision in this matter, the Commission will reopen the claim, provided however, that such evidence is received by May 1, 1972 in order to permit consideration thereof prior to close of the program on June 30, 1972.

The claim remains denied.

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

SEP 28 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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MARTHA S. NEILL

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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:

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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 MARTHA S. NEILL 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).)

MARTHA S. NEILL, through Vertientes Camaguey Sugar Company asserted claim for 200 shares of Vertientes stock.

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.


On April 30, 1969, counsel was invited to submit any evidence available to him 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 evidence has since been submitted.

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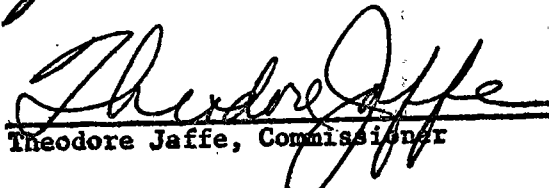
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby 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

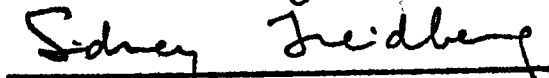
18 MAR 1970



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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