

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

IN THE MATTER OF THE CLAIM OF

BERTHA E. CLYNE

Claim No. CU-7269

Decision No. CU 5060

Under the International Claims Settlement  
Act of 1949, as amended

Represented by Cia. Azucarera Atlantica del Golfo

Counsel for Cia. Azucarera Atlantica del Golfo:

Dewey, Ballantine, Bushby, Palmer & Wood - By William C. Bush, Esq.

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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 Cia. Azucarera Atlantica del Golfo as of March 15, 1967, on behalf of BERTHA E. CLYNE based upon the asserted loss of a stock interest. Claimant stated she has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [73 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 claim is based on 400 shares of stock of Cia. Azucarera Atlantica del Golfo, whose properties were nationalized by the Government of Cuba on August 6, 1960. (See Claim of Helen M. Drye, Claim No. CU-0807.)

By communication mailed June 1, 1968, claimant informed the Commission that the stock subject of this claim was sold on May 18, 1965.

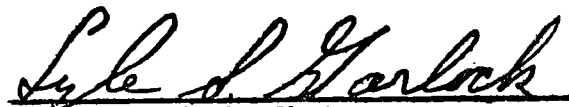
Under the aforesaid provisions of the Act it is apparent that in order to establish a compensable claim, the claimant must establish ownership of the property in question at time of the asserted loss, and ownership of the claim therefor continuously from time of

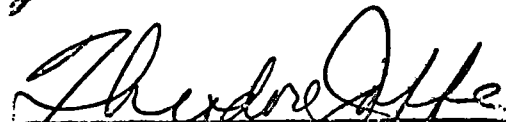
loss to filing claim with this Commission. In the instant claim, the claimant sold her interests prior to the time this claim was filed on her behalf. She does not state that in selling her stock interest, the claim for loss was not included. Thus, while claimant may have been the owner of the claim at the time of loss, she was not the owner of the claim at the time of filing claim herein. (See Claim of Michael Vasti, Claim No. CU-2145, 1967 FCSC Ann. Rep. 62.)

Accordingly, for the foregoing reasons, this claim is hereby denied. The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

JUL 1 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).)