

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

IN THE MATTER OF THE CLAIM OF

THE MERRILL TRUST COMPANY,
TRUSTEE UNDER AGREEMENT WITH
JOHN J. MARSANO

Claim No. **CU-7704**

Claim No. CU-7705

Decision No. **CU-5798**

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.

PROPOSED DECISION

Claim No. CU-7704, filed by JOHN J. MARSANO, is based upon 80 shares of stock in Atlantica del Golfo Sugar Company. Claim No. CU-7705, based upon 120 shares of the stock, was filed by JOHN J. MARSANO and his wife, Louise D. Marsano.

Under date of October 14, 1970, Claim No. CU-7705 was denied for lack of proof. Subsequently, additional supporting evidence was submitted.

Upon consideration of the entire record, it is

ORDERED, that the Proposed Decision of October 14, 1970 be and it is set aside and this Proposed Decision will issue. Louise D. Marsano now deceased and JOHN J. MARSANO have been nationals 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 Commission finds as follows:

1. That Louise D. Marsano and JOHN J. MARSANO jointly owned since prior to August 6, 1960, the applicable date of loss, 120 shares of stock in Atlantica del Golfo Sugar Company.
2. That Louise D. Marsano and JOHN J. MARSANO jointly owned since prior to October 13, 1960, the applicable date of loss, 5 shares of stock in Central Violeta Sugar Company.
3. That Louise D. Marsano died on December 30, 1967, and that upon her death JOHN J. MARSANO succeeded to her property interests in the two said sugar companies.
4. That JOHN J. MARSANO owned since prior to August 6, 1960, 80 shares of stock in Atlantica del Golfo Sugar Company.
5. That JOHN J. MARSANO owned since prior to October 13, 1960, 3 shares of stock in Central Violeta Sugar Company.
6. That JOHN J. MARSANO executed a trust agreement naming THE MERRILL TRUST COMPANY as Trustee, and that he transferred to said Trustee all his rights and interests with respect to the 200 shares of stock in Atlantica del Golfo Sugar Company and the 8 shares of stock in Central Violeta Sugar Company.

Accordingly, THE MERRILL TRUST COMPANY as Trustee is substituted as sole claimant with respect to both claims.

In our decision entitled the Claim of Helen M. Drye (Claim No. CU-0807 which we incorporate herein by reference), we held that the properties owned by Atlantica del Golfo Sugar Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is allowable 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 \$34.056.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Drye decision; that claimant's predecessors in interest were American nationals at the requisite times; that they had been the owners of 200 shares of stock in the Cia. Azucarera Atlantica del Golfo since prior to August 6, 1960; and that they suffered a loss in the aggregate amount of \$6,811.20 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 Drye, supra.)

In our decision entitled the Claim of Huntley E. Cox (Claim No. CU-2944 which we incorporate herein by reference), we held that the properties of Central Violeta Sugar Company were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is allowable 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 \$30.4318.

On the basis of evidence in the record in the instant case, the Commission finds, that this claimant comes within the terms of the Cox decision; that claimant's predecessors in interest were American nationals at the requisite times; that they had been the owners of 8 shares of stock in the Central Violeta Sugar Company, S.A. since prior to October 13, 1960; and that they suffered a loss in the aggregate amount of \$243.45 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 October 13, 1960, the date of loss, to the date on which provisions are made for the settlement thereof. (See Cox, supra.)


Accordingly, the following certification of loss will be entered.

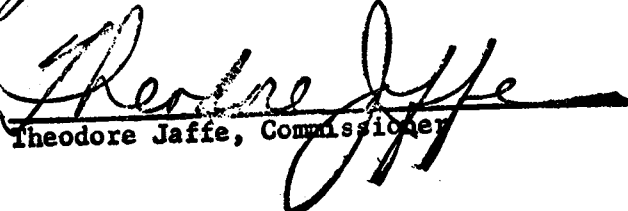
CERTIFICATION OF LOSS

The Commission certifies that THE MERRILL TRUST COMPANY, TRUSTEE UNDER AGREEMENT WITH JOHN J. MARSANO 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 Seven Thousand Fifty-Four Dollars and Sixty-six Cents (\$7,054.65) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

NOV 23 1970


Lytle 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 possession 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 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. 101.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)