

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

IN THE MATTER OF THE CLAIM OF

DOLORES DIAZ GAYLORD, INDEPENDENT EXECUTRIX
OF THE ESTATE OF JAMES B. GAYLORD, DECEASED

Claim No. CU-8681

Decision No. CU 6681

**Under the International Claims Settlement
Act of 1949, as amended**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for an unstated amount, was presented by the El Paso National Bank, as Probate Agent for DOLORES DIAZ GAYLORD, Independent Executrix of the ESTATE of JAMES A. GAYLORD, Deceased, based upon the asserted loss of a stock interest in Guantanamo Sugar Company and of pension rights. The decedent, JAMES B. GAYLORD, was a national of the United States from the date of his birth in the United States to October 22, 1969, the date of his death.

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.

In our decision entitled the Claim of Henrietta Mae Siegel (Claim No. CU-3478 which we incorporate herein by reference), we held that the properties owned by the Guantanamo Sugar 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 \$49.7856.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Siegel decision; that the decedent was the owner of 5 shares of stock in the Guantanamo Sugar Company since prior to August 6, 1960; and that he suffered a loss in the amount of \$248.93 within the meaning of Title V of the Act.

The Commission further finds that the decedent, having been general administrator of the Guantanamo Railroad Company, upon his retirement in 1950 was entitled to receive monthly retirement benefits from the National Retirement Fund for Transportation Employees (Caja Nacional del Retiro de Transporte Terrestre) in Cuba. The benefits amounted, in accordance with a Cuban law enacted in 1954 which reduced such benefits for retirees not living in Cuba by 50%, to \$58.50 per month. These benefits were paid to a Cuban bank and transferred to the decedent until 1959, when the transfer was discontinued pursuant to Law 568 of September 29, 1959. Under Law 989 published in the Official Gazette of Cuba on December 6, 1961, the Government of Cuba nationalized by confiscation all goods and chattels, rights, shares, stock, bonds, securities and other property of persons who left Cuba. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]; and Claim of A. M. Joy de Pardo, Claim No. CU-1906, 1969 FCSC Ann. Rep. 71.) The

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Commission therefore concludes that the pension rights of the decedent were taken by the Government of Cuba on December 6, 1961.

There remains for determination the value of the pension rights, which had accrued to the decedent at the date of loss.

The Commission has adopted as a basis for the valuation of annuities the Makehamized mortality table, appearing as Table 38 of the United States Life Tables and Actuarial Tables 1939-1941, published by United States Treasury Department Regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031-2037.) According to that method of valuation, the value of an annuity for a person of the age of 75 amounts to 6.2148 times the yearly sum of the annuity. Since on the date of taking the decedent was 75 years old and the annuity amounted to \$702.00 (the peso being considered on a par with the United States dollar), the value of the annuity was \$4,362.79.

The losses are summarized as follows:

<u>Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Guantanamo shares	August 6, 1960	\$ 248.93
Pension rights	December 6, 1961	<u>4,362.79</u>
	Total	\$ 4,611.72


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), and in the instant case it is so ordered.


CERTIFICATION OF LOSS

The Commission certifies that DOLORES DIAZ GAYLORD, Independent Executrix of the ESTATE OF JAMES B. GAYLORD, Deceased, 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 Four Thousand Six Hundred Eleven Dollars and Seventy-two Cents (\$4,611.72) with interest at 6% per annum from the respective dates of the loss to the date of settlement.

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

AUG 11 1971


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 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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