

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

IN THE MATTER OF THE CLAIM OF

KEY & KEY BROTHERS

Under the International Claims Settlement  
Act of 1949, as amended

*Final Decision follows this  
P.D.*

Claim No. CU-8729

Decision No. CU 6508

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 KEY & KEY BROTHERS and is based upon the asserted loss of a stock interest.

Under Title V of the International Claims Settlement Act of 1949 [79 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) (1970).)

The claim is based on 100 shares of Guantanamo Sugar Company.

Evidence was suggested as to the nationality of the partners. The record includes an affidavit to this effect but not birth certificates or similar evidence.

Claimant was advised as to the type of evidence proper for submission to establish this claim under the Act, but this evidence has not been received.

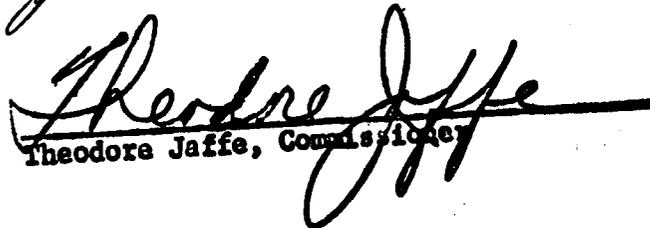
CU-8729

The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership by United States nationals of rights and interests 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

**AUG 4 1971**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, 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 (1970).)

CU-8729

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

IN THE MATTER OF THE CLAIM OF

DAVID R. KEY,  
EDMUND M. KEY, and  
HOBART KEY, JR.  
d.b.a.  
KEY & KEY BROTHERS

Claim No. CU-8729

Decision No. CU -6508

Under the International Claims Settlement  
Act of 1949, as amended

Council for claimant:

None

FINAL DECISION

By Proposed Decision issued on August 4, 1971 this claim was denied for failure of proof. The record had reflected that claimant is a partnership consisting of three partners, DAVID R. KEY, EDMUND M. KEY, and HOBART KEY, JR. but did not establish the United States nationality of the partners. Subsequently evidence was submitted that establishes that they have been United States nationals since birth.

The Commission holds, therefore, that claimant, KEY & KEY BROTHERS, is a national of the United States within the meaning of the Act. The Commission further finds that claimant has been the owner of 100 shares of stock of Guantanamo Sugar Company since prior to August 6, 1960.

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 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 it was an American national at the requisite times; and that it suffered a loss in

the amount of \$4,978.56 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 Siegel, supra.)

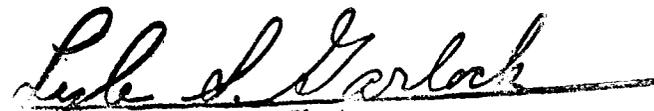
In view of the foregoing, the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

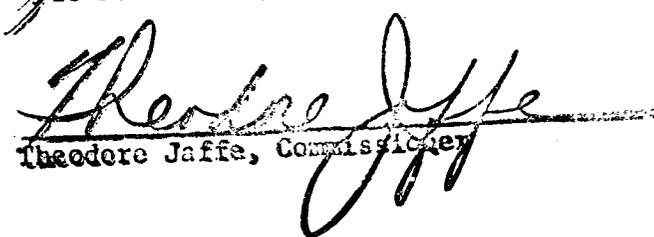
CERTIFICATION OF LOSS

The Commission certifies that DAVID R. KEY, EDMUND M. KEY, and HOBART KEY, JR., d.b.a. KEY & KEY BROTHERS 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 Nine Hundred Seventy Eight Dollars and Fifty Six Cents (\$4,978.56) with interest thereon at 6% per annum from August 6, 1960 to the date of settlement.

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

OCT 6 1971

  
Wyle 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.