

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

IN THE MATTER OF THE CLAIM OF

ARTHUR LEWIS QUINN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1577

Decision No. CU - 5822

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 ARTHUR LEWIS QUINN for \$8,093.05 based upon the asserted ownership and loss of a stock interest in the Cia Azucarera Atlantica del Golfo and of a debt due from a Cuban organization. Claimant 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.

Claimant describes his loss as follows:

Stock purchases Atlantica del Golfo Sugar Company	\$1,843.05
Legal services July 1, 1960 through September 30, 1960	<u>6,250.00</u>
	\$8,093.05

Atlantica del Golfo Sugar Company

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 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 \$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 he has been the owner of 300 shares of stock in the Cia. Azucarera Atlantica del Golfo since prior to August 6, 1960, and that he suffered a loss in the amount of \$10,216.80 within the meaning of Title V of the Act.

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.

On the basis of evidence of record, the Commission finds that claimant acquired additional shares of Atlantica stock by purchase in 1961, and in the absence of evidence to the contrary, finds that he acquired 500 shares on March 9, 1961 for a consideration of \$1,035.35 and 200 shares on September 19, 1961 for \$237.35.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a

national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on August 6, 1960. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned.

(See Claim of Samuel J. Wikler, et al., Claim No. CU-2571, 1968 FCSC Ann. Rep. 47.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Commission finds that claimant, as an assignee by purchase, acquired the claim for the loss sustained by the assignor of the securities purchased in 1961, but under the limitations provided in Section 507 of the Act (supra), is limited to \$1,272.70, the actual consideration paid for these shares.

Legal Services

The record includes a copy of a letter from the Washington office of The Cuban Sugar Institute, a semi-government organization of Cuba, dated November 9, 1959 advising claimant that the Council of Directors of the Institute had agreed to pay claimant a retainer of \$25,000.00 per annum beginning October 1, 1959. The record also contains a copy of a letter from the Institute in Havana, Cuba dated August 29, 1960 advising claimant that his services were

terminated as of July 1, 1960 because of the changed circumstances regarding the sale of sugar in the American market. This letter also referred to the retainer agreement and stated that it was for only a 6 month period which expired March 30, 1960 and that his payment for the period April 1, 1960 to June 30, 1960 had required a special authorization of the Council on March 16, 1960.

In a letter dated September 6, 1960 claimant protested the Council's action and stated that he had worked diligently for the Institute during July and August. Claimant also submitted an affidavit from Dr. Joaquin E. Meyer, the Director of the Washington office of the Institute from 1956 until late 1960, which supports claimant's assertion that his agreement with the Institute was for the annual period ending September 30, 1960. Dr. Meyer further states that he considered claimant's agreement to be fully in effect and binding for the period July 1, 1960 through September 30, 1960; and that he considered the claim as being against the Government of Cuba because of the control exercised by officials of the Cuban government over the affairs of the Institute.

In view of the above and the evidence of record, the Commission finds that the action by the Government of Cuba constituted an intervention in the contractual rights of claimant with respect to payments under his retainer agreement with the institute. (See Claim of Jantzen, Inc., Claim No. CU-1531, 1968 FCSC Ann. Rep. 66.) The record establishes that under the retainer agreement claimant was to be paid quarterly in advance, and since no payment was paid for the last quarter beginning July 1, 1960, the Commission finds that claimant's loss in this regard was in the amount of \$6,250.00 and occurred on July 1, 1960.

SUMMARY

The Commission therefore finds that claimant suffered the following losses within the meaning of Title V of the Act:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Atlantica del Golfo Stock	August 6, 1960	\$10,216.80
Atlantica del Golfo Stock	March 9, 1961	1,035.35
Atlantica del Golfo Stock	September 19, 1961	237.35
Fee for Legal Services	July 1, 1960	<u>6,250.00</u>
		\$17,739.50

It will be noted that the total amount of the loss found herein is in excess of the amount asserted by the claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amount which may be asserted by claimant as the extent thereof. (See Claim of Eileen M. Smith, Claim No. CU-3038.)

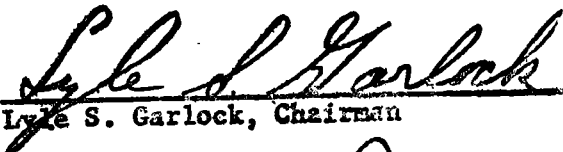
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case, it is so ordered.


CERTIFICATION OF LOSS

The Commission certifies that ARTHUR LEWIS QUINN 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 Seventeen Thousand Seven Hundred Thirty-Nine Dollars and Fifty Cents (\$17,739.50) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

SEP 9 1970


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, 32 Fed. Reg. 412-13 (1967).)