

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

IN THE MATTER OF THE CLAIM OF

WILLIAM W. OGDEN  
JOHN F. BRICKER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2536

Claim No. CU-2537

Decision No. CU-2273

Counsel for claimants:

Rufus King, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision dated July 24, 1968, the Commission denied these claims for the reason that claimants had failed to submit evidence pertaining to United States nationality and evidence pertaining to ownership, loss and value of the stock interests, subject of these claims. Subsequently, claimants submitted, through counsel, additional evidence, and, upon consideration of these matters, the Proposed Decision is hereby amended.

These claims, each in the amount of \$81,950.00, were presented by WILLIAM W. OGDEN and JOHN F. BRICKER, based upon the asserted loss of stock interests in certain Cuban corporations, including Compania Petrolera Arabia, S.A. and Compania Petrolera Aventura, S.A. Claimants herein have been nationals of the United States since birth.

In our decisions Claim of William A. Powe, Claim No. CU-0502 and the Claim of John H. Parker, et al, Claim No. CU-0041, which we incorporate herein by reference, we held that the properties of Compania Petrolera Arabia, S.A. and Compania Petrolera Aventura, S.A. were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, and that these types of claims are 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 of a share of common stock of Compania Petrolera Arabia, S.A. as \$83.33 and the value of a share of common stock of Compania Petrolera Aventura, S.A. as \$4,000.00.

On the basis of evidence in the record in the instant claims, the Commission finds that claimants herein come within the terms of the Powe and Parker decisions; that they were American nationals at the requisite times; that each claimant had been the owner of 35 shares of Compania Petrolera Arabia, S.A. and 20 shares of Compania Petrolera Aventura, S.A. since prior to November 23, 1959; and that each claimant suffered losses in the total amount of \$82,916.55 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 November 23, 1959, the date of loss, to the date on which provisions are made for the settlement thereof. (See Powe and Parker, supra.)

Accordingly, the following certifications of loss will be entered and in all other respects the Proposed Decision is affirmed.

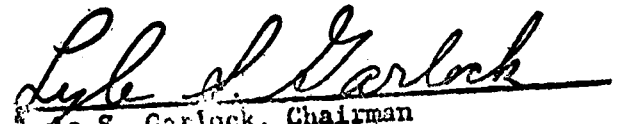
CERTIFICATIONS OF LOSS

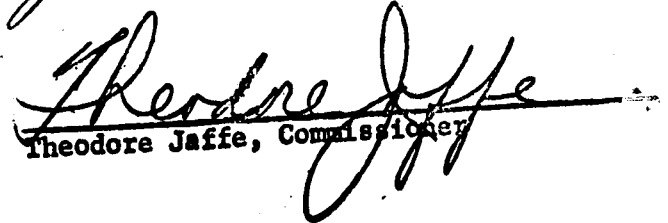
The Commission certifies that WILLIAM W. OGDEN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighty-Two Thousand Nine Hundred Sixteen Dollars and Fifty-Five Cents (\$82,916.55) with interest thereon at 6% per annum from November 23, 1959 to the date of settlement; and

The Commission certifies that JOHN F. BRICKER 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 Eighty-Two Thousand Nine Hundred Sixteen Dollars Fifty-Five Cents (\$82,916.55 ) with interest at 6% per annum from November 23, 1959 to the date of settlement.

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

MAY 26 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 Amended 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- 2536  
CU- 2537

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

IN THE MATTER OF THE CLAIM OF

WILLIAM W. OGDEN  
JOHN F. BRICKER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2536  
Claim No. CU-2537

Decision No. CU

2273

Counsel for claimants:

Rufus King, Esquire

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, each in the amount of \$81,950.00, were presented by WILLIAM W. OGDEN and JOHN F. BRICKER, and are based upon the asserted loss of stock interests in two Cuban corporations. Claimant WILLIAM W. OGDEN has been a national of the United States since his birth. Claimant JOHN F. BRICKER states that he has been a national of the United States since his birth and has submitted in support the affidavit of one who remembers his 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, 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) (Supp. 1967).)

These claims are based on interests in Cia. Petrolera Arabia, S. A., and Petrolera Aventura, S. A. By Commission letter of August 22, 1967, suggestions were made to claimants, through counsel, as to the type of evidence appropriate for submission to establish these claims under the Act. In particular, it was suggested that claimants submit their original stock certificates and evidence to establish the dates of loss (which have not been ascertained by the Commission to date) and the value of the stock interests on such dates.

CU-2536  
CU-2537

In reply, by duplicate letters of October 26, 1967, counsel submitted additional evidence, to wit: photocopies of a letter of October 19, 1967 addressed to counsel from claimant WILLIAM W. OGDEN, and a letter of October 12, 1967 addressed to claimant JOHN F. BRICKER from claimant WILLIAM W. OGDEN; photocopies of stock certificates; and a copy of a Bureau of the Census record relating to the United States citizenship of claimant WILLIAM W. OGDEN.

Thereafter, by Commission letter of November 28, 1967, it was suggested to claimant JOHN F. BRICKER, through counsel, that additional evidence be submitted to establish his birth in the United States. Subsequently, by Commission letter of April 23, 1968, it was again suggested to claimants, through counsel, that they submit their original stock certificates, as well as evidence to establish any action taken by the Government of Cuba in connection with the two Cuban corporations, and the value of the companies on the date of loss. Although it was suggested that this evidence be submitted within 20 days from the date of the Commission's letter of April 23, 1968, no evidence has since been received. Neither claimants nor counsel have corresponded further with the Commission.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, these claims are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claims.

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

JUL 24 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

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).)

CU- 2536

CU -2537