

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

IN THE MATTER OF THE CLAIM OF

JULIA M. GRUBB

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2682

Decision No. CU -455

Counsel for claimant:

Huffman, Arrington, Scheurich & Kincaid
By: Michael V. Snyder, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision dated October 18, 1967, the Commission denied this claim for claimant's failure to meet the burden of proof in that she failed to establish ownership of rights and interests in property which was lost as a result of nationalization, expropriation, intervention or other taking by the Government of Cuba.

The claimant having thereafter submitted additional evidence in support of the claim, and the matter having been considered, the Proposed Decision is amended as follows:

The evidence of record includes an affidavit and letter from Ernesto M. Rojas, an affidavit from Jose M. Hernandez, a copy of Common Open Will No. 282 of Julia Farach y Rodriguez, a letter from the First National City Bank of New York, a copy of a financial statement for Compania Azucarera Caibarien as of September 30, 1956, a copy of a report of the Treasury of Residencial Alamar as of February 3, 1956, six photographs, a copy of a United States Internal Revenue Service report, and claimant's own affidavit, letters, and statements.

Based upon the entire record, the Commission finds that claimant, JULIA M. GRUBB, owned 100 shares of stock in Sociedad Territorial Alamar, 88 shares of stock in Compania Azucarera Caibarien, S.A., and 350 shares of stock in Almacenes Lopez, S.A.

The record discloses that Sociedad Territorial Alamar and Compania Azucarera Caibarien, S.A., were nationalized by the Government of Cuba on October 13, 1960, and that Almacenes Lopez, S.A., was nationalized by the Government of Cuba on January 13, 1961. These corporations were organized under the laws of Cuba and do not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held previously that a stockholder in such corporations is entitled to file a claim based upon her ownership interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

In determining the value of the interest owned by claimant in Sociedad Territorial Alamar, Compania Azucarera Caibarien, S.A., and Almacenes Lopez, S.A., the Commission has considered the affidavits and letter from Ernesto M. Rojas and Jose M. Hernandez, a copy of a financial statement for Compania Azucarera Caibarien, as of September 30, 1956, a copy of a report of the Treasury of Residencial Alamar as of February 3, 1956, and all other evidence of record. On the basis of the entire record, the Commission concludes that the dollar loss sustained by Sociedad Territorial Alamar on October 13, 1960, was \$862,000.00, and the loss per share for each of the 8,620 shares of common stock was \$100.00; that the dollar loss sustained by Compania Azucarera Caibarien, S.A., on October 13, 1960, was \$958,869.00, and the loss per share for each of the 939 shares of common stock was \$1,021.00; and that the dollar loss sustained by Almacenes Lopez, S.A., on January 13, 1961, was \$280,000.00, and the loss per share for each of the 2,800 shares of common stock was \$100.00.

Accordingly, in the instant claim, the Commission finds that claimant as holder of 100 shares of common stock of Sociedad Territorial Alamar suffered a loss in the amount of \$10,000.00, as a result of the nationalization of Sociedad Territorial Alamar by the Government of Cuba on October 13, 1960; that claimant as holder of 88 shares of common stock of Compania Azucarera Caibarien, S.A., suffered a loss in the amount of \$89,848.00, as a result of the nationalization of Compania Azucarera Caibarien, S.A., by the Government of Cuba on October 13, 1960; that claimant as holder of 350 shares of common stock of Almacenes Lopez, S.A., suffered a loss in the amount of \$35,000.00, as a result of the nationalization of Almacenes Lopez, S.A., by the Government of Cuba on January 13, 1961; and that such losses were sustained by claimant within the meaning of Title V of the Act.

Based upon the entire record, the Commission also finds that claimant was the owner of a 22.5% interest in 2,310 acres of farm land in Las Villas Province, Cuba, adjoining the Central Reforma Sugar Mill (near Caibarien, Cuba), together with 380 head of Cebu cattle and 40,000 tons of sugar cane, which property was confiscated by the Government of Cuba in February 1960. Upon consideration of the entire record, the Commission finds that, at the time of loss, claimant's interest in the aforementioned property had a value of \$100,000.00.

Finally, the Commission finds that claimant had a balance of \$25,000.00 on deposit with The First National Bank of Boston, Havana Branch.

As is fully set forth in the original decision involving bank accounts (see Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]), which is hereby incorporated herein and made a part hereof by reference), this type of claim for loss of a bank account is compensable. There is no need to again detail herein the reasons for such a determination.

The Commission finds that this claimant comes within the terms of the Auld decision, and that she suffered a loss in the amount of \$25,000.00, as the result of the taking of the subject bank account by the Government of Cuba on December 6, 1961. (See Auld, supra.)

The Commission has decided that in certification of losses 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.)

Accordingly, the Commission concludes that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from the respective dates of loss to the date on which provisions are made for the settlement thereof as follows:

<u>From</u>	<u>As To</u>
February 15, 1960	\$100,000.00
October 13, 1960	99,848.00
January 13, 1961	35,000.00
December 6, 1961	25,000.00

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 JULIA M. GRUBB 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 Two Hundred Fifty-nine Thousand Eight Hundred Forty-eight Dollars (\$259,848.00) 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 Amended Proposed Decision of the Commission

NOV 6 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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 for 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, 32 Fed. Reg. 412-13 (1967).)

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

IN THE MATTER OF THE CLAIM OF

JULIA M. GRUBB

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2682

Decision No. CU-455

Counsel for claimant:

Robert A. Huffman, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$300,000.00, was presented by JULIA M. GRUBB and is based upon the asserted ownership of securities in Sociedad Terr. Ala., Campania Azuc. Carib., and Almacenes Lopez, S.A. and upon the asserted ownership and loss of certain real and personal property, including cattle, growing sugar crop, and a bank account. Claimant has been a national of the United States since her naturalization on April 13, 1949.

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 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).)

This claim is based upon the asserted ownership of 100 shares of stock in Sociedad Terr. Ala., 88 shares of stock in Campania Azuc. Carib., and 350 shares of stock in Almacenes Lopez, S.A. In addition, this claim is based upon the asserted ownership and loss of 2,310 acres of land, 380 head of cattle, 40,000 tons of growing sugar crop, and a bank account in the First National Bank of Boston, Havana Branch. The record contains a copy of a United States Internal Revenue Service report and claimant's own letter and statements.


By Commission letter of July 20, 1967, claimant was advised, through counsel, as to the type of additional evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence has been received to date.

On August 22, 1967, counsel was invited to submit any evidence available to him within 45 days from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

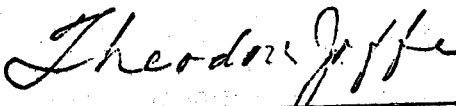
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby 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

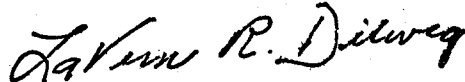
OCT 18 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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-2682