

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

IN THE MATTER OF THE CLAIM OF

LUCILLE E. WARNER
and
ELVA W. ROBERTS

Claim No. CU-2742

Decision No. CU
3348

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

Claimants, LUCILLE E. WARNER and ELVA W. ROBERTS, assert a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of Cia. Azucarera Vertientes-Camaguey de Cuba.

In our decision entitled the Claim of Ruth Anna Haskey (Claim No. CU-0849 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 \$46.3946.

The record reflects that Douglas K. Warner, a national of the United States by birth, purchased 500 shares of Vertientes-Camaguey stock on January 8, 1959, in the name of "Douglas K. Warner and Elva Roberts as Trustees under Trust Agreement dated December 18, 1958 f/b/o Douglas K. Warner, et al." The properties of the Vertientes-Camaguey Sugar Company were taken by the Government of Cuba on August 6, 1960. The Commission finds that the aforesaid Trust suffered a loss in the amount of \$23,197.30 within the meaning of Title V of the Act, as a result of the taking of the properties of the Company. Under the terms of the Declaration of Trust, upon the death of Douglas K. Warner, First Beneficiary, the net income was payable to

LUCILLE E. WARNER, Second Beneficiary, during her lifetime. Upon her death, the remainder would be payable to ELVA ROBERTS. The settlor died on November 17, 1964. Letters Testamentary issued to LUCILLE E. WARNER and ELVA ROBERTS, in the matter of the Estate of Douglas K. Warner, Deceased. An Order of Distribution in the Estate issued on August 29, 1967. However, the Commission holds that the stock interest involved devolved according to the terms of the Trust.

Accordingly, the Commission finds that upon the death of Douglas K. Warner on November 17, 1964, LUCILLE E. WARNER acquired a life estate in the stock interest, and ELVA ROBERTS acquired the remainder interest. According to evidence of record LUCILLE E. WARNER was 55 years old at the time she acquired her interest. The value of the life estate and of the remainder interest must be determined.

The Commission has adopted as a basis for valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed 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. 2031-7.) According to the method of valuation, a life estate in property so encumbered is valued at .45926 of the entire estate, and the remainder interest is valued at .54074 of the entire estate. Therefore, since the value of the stock in question is \$23,197.30 the life estate thereon is valued at \$10,653.59 which is .45926 of that amount and the remainder is valued at \$12,543.71 which is .54074 of that amount.

Therefore the Commission finds that the interests of LUCILLE E. WARNER and ELVA W. ROBERTS, to which they succeeded, in the claim arising from the actions of the Government of Cuba had values of \$10,653.59 and \$12,543.71, respectively. 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 Haskew, supra.)

CERTIFICATION OF LOSS

The Commission certifies that LUCILLE E. WARNER succeeded to 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 Ten Thousand Six Hundred Fifty-three Dollars and Fifty-nine Cents (\$10,653.59) with interest thereon at 6% per annum from August 6, 1960 to the date of settlement; and

the Commission certifies that ELVA W. ROBERTS 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 Twelve Thousand Five Hundred Forty-three Dollars and Seventy-one Cents (\$12,543.71) 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 Proposed
Decision of the Commission

DEC 3 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 claimants establish 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 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).)