

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

IN THE MATTER OF THE CLAIM OF

HENRY R. JAHN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2825

Decision No. CU 3752

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$53,073.00, was presented by HENRY R. JAHN based upon the asserted loss of a stock interest in a Cuban corporation. 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.

The record establishes and the Commission finds that claimant owned an 83.2% stock interest in Compania Importadora Ancira, S.A., a Cuban corporation. It further appears from the evidence of record that this Cuban corporation was nationalized by the Government of Cuba on December 5, 1962.

Since this corporation was organized under the laws of Cuba, it does 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 a corporation is entitled to file a claim based upon the stock in question which represents an ownership interest in the assets of a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". The Commission has concluded that this phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property

and that it is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider; i.e., fair market value, book value, going concern value, or cost of replacement.

In support of his claim, claimant has submitted a balance sheet for the Cuban corporation as of November 30, 1959. Apparently, no other financial statements or other evidence respecting the value of the Cuban corporation is available. The balance sheet shows the financial condition of the Cuban corporation as of November 30, 1959 as follows, in pesos, the Cuban peso being on a par with the United States dollar:

ASSETS

Current Assets:

Cash in banks	\$	262.90	
Accounts Receivable:			
Clients (less			
\$8,000.00)	\$36,624.26		
Employee loans	2,450.62		
Claims	494.30		
From Suppliers	<u>2,696.45</u>		
		42,265.63	
Inventory		49,218.84	
Prepaid Insurance		<u>1,287.79</u>	
Total Current Assets			\$ 93,035.16

Other Assets:

Drafts purchased from Industria			
de Acero Camaguey, S.A.	44,834.99		
Commissions due from			
Jahn de Cuba, S.A.	22,277.85		
Oscar Alvarez Leon (receivable)	14,182.65		
Henry R. Jahn, Jr.	1,035.16		
Deposits	<u>140.00</u>		
Total Other Assets			82,470.65

Fixed Assets (depreciated):

Cars & trucks	2,103.82		
Other vehicles & equipment	2,800.56		
Improvements on leased			
property	2,863.71		
Tools	<u>294.27</u>		
Total Fixed Assets			<u>8,062.36</u>
Total Assets			<u>\$183,568.17</u>

LIABILITIES AND CAPITAL

Current Liabilities:

Drafts payable - Chase Manhattan Bank	\$ 64.81	
Draft account - Henry R. Jahn & Son, Inc.	21,558.39	
Suppliers - Accounts payable	3,896.03	
Bank expenses payable	4,151.88	
Taxes and other expenses payable	<u>3,084.96</u>	
		\$ 32,756.07

Henry R. Jahn & Son, Inc.:

Open account	80,419.31	
Consignment account	<u>6,602.13</u>	
		87,021.44

Capital:

Issued	\$100,000.00	
Deficits:		
1959 - \$22,786.91		
1958 - <u>13,422.43</u>	<u>36,209.34</u>	
Net Capital		<u>63,790.66</u>
Total Liabilities & Capital		<u>\$183,568.17</u>

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimant is that shown in the balance sheet of November 30, 1959. However, the Commission notes that one of the assets of the Cuban corporation was a debt due from Henry R. Jahn, Jr. in the amount of \$1,035.16. In the absence of evidence establishing that this asset existed on December 5, 1962, the date of loss, and benefited Cuba, the Commission finds that it was not an asset of the corporation on the date of loss.

In the related claim of Henry R. Jahn & Son, Inc. (Claim No. CU-2872), it appears that the debt due that American corporation from the Cuban corporation herein was the aggregate amount of \$102,667.07 on November 3, 1960,

whereas the foregoing balance sheet shows the debt as \$108,579.83 on November 30, 1959. Inasmuch as the account receivable of the American corporation was closer to the date of loss than the balance sheet of the Cuban corporation, the Commission finds that the accounts payable to Henry R. Jahn & Son, Inc. was \$102,667.07 on the date of loss.

Accordingly, the Commission finds that on December 5, 1962, the date of loss, the assets and liabilities of the Cuban corporation were \$2,322.95 and \$5,912.76 less, respectively, than shown in the balance sheet of November 30, 1959. Therefore the assets had an aggregate value of \$182,533.01 and the liabilities were \$113,864.75. The Commission concludes that the net worth or value of the Cuban corporation on the date of loss was \$78,668.56, and that claimant's loss within the meaning of Title V of the Act was \$65,668.34, representing his 83.2% stock interest.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

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), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that HENRY R. JAHN 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 Sixty-five Thousand Six Hundred Sixty-eight Dollars and Thirty-four Cents (\$65,668.34) with interest at 6% per annum from December 5, 1962 to the date of settlement.

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

JUL 23 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

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).)

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

IN THE MATTER OF THE CLAIM OF

HELEN LINDLEY COOK

Claim No. CU-5314

Decision No. CU **3753**

Under the International Claims Settlement  
Act of 1949, as amended

Represented by Cia. Azucarera Vertientes-Camaguey de Cuba

Counsel for Cia. Azucarera Vertientes-Camaguey de Cuba:  
Shapiro, Fried and Weil  
By Herbert S. Shapiro, Esq.

PROPOSED DECISION

Claimant, HELEN LINDLEY COOK, who inherited a stock interest in the Cia. Azucarera Vertientes-Camaguey de Cuba, asserts 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 said Company.

In our decision entitled the Claim of Ruth Anna Haskew (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.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Haskew decision; that claimant and her predecessor in interest, Thomas N. Cook, were American nationals at the requisite times; that he was the owner of 300 shares of stock in the Cia. Azucarera Vertientes-Camaguey de Cuba since prior to August 6, 1960; that he suffered a loss in the amount of \$13,918.38 within the meaning of Title V of the Act; and upon his death in 1961 claimant succeeded thereto. 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 HELEN LINDLEY COOK succeeded to and 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 Thirteen Thousand Nine Hundred Eighteen Dollars and Thirty-eight Cents (\$13,918.38) with interest 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

JUL 23 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

NOTICE TO TREASURY DEPARTMENT: This claimant may be the subject of another certification of loss in CU-5313.

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 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

CURTIS H. KINDER  
NETTIE KINDER

Claim No. CU -5656

Decision No. CU/

3754

Under the International Claims Settlement  
Act of 1949, as amended

Represented by Cia. Azucarera Vertientes-Camaguey de Cuba

Counsel for Cia. Azucarera Vertientes-Camaguey de Cuba:

Shapiro, Fried and Weil

By Herbert S. Shapiro, Esq.

PROPOSED DECISION

Claimants, CURTIS H. KINDER and NETTIE KINDER, who owned a stock interest in the Cia. Azucarera Vertientes-Camaguey de Cuba, 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 said Company.

In our decision entitled the Claim of Ruth Anna Haskew (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.

On the basis of evidence in the record in the instant case, the Commission finds that these claimants come within the terms of the Haskew decision; that they were American nationals at the requisite times; that they have been the joint owners of 25 shares of stock in the Cia. Azucarera Vertientes-Camaguey de Cuba since prior to August 6, 1960; and that they suffered a loss in the amount of \$1,159.86 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 Haskew, supra.)

CERTIFICATION OF LOSS

The Commission certifies that CURTIS H. KINDER and NETTIE KINDER jointly 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 One Thousand One Hundred Fifty-nine Dollars and Eighty-six Cents (\$1,159.86) with interest 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

JUL 23 1969

*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).)