

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

IN THE MATTER OF THE CLAIM OF

DOROTHY JUNE NIEGLOS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2950

Decision No. CU-3387

Counsel for claimant:

S. Eugene Lindstamer, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision of the Commission issued on December 8, 1968, the claim of DOROTHY JUNE NIEGLOS was denied for the reason that she had not met the burden of proof in that she failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba.

Claimant subsequently submitted additional appropriate evidence. Full consideration having been given to the additional evidence, it is

ORDERED that the Proposed Decision be and the same is hereby amended.

The Commission now finds that claimant owned 3 First Mortgage 7-1/2% Sinking Fund Gold Bonds issued by the Cespedes Sugar Company, in the original face amount of \$1,000 each.

In our decision entitled the Claim of Michael Hanley (Claim No. CU-2118 which we incorporate herein by reference), we held that

the properties of 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 \$1,000 bond of \$458.44 including interest to August 6, 1960.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Hanley decision; that she was an American national at the requisite times; that she has been the owner of 3 bonds issued by the Cespedes Sugar Company since prior to August 6, 1960; and that she suffered a loss in the amount of \$1,375.32 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 Hanley, supra.)

In all other respects, the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that DOROTHY JUNE NIEGLOS 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 Three Hundred Seventy-five Dollars and Thirty-two Cents (\$1,375.32) with interest at 6% per annum from August 6, 1960 to the date of settlement.

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

JAN 29 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 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

DOROTHY JUNE NIEGLOS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2950

Decision No. CU 3387

Counsel for claimant:

S. Eugene Lindstamer, 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 \$1,347.10, was presented by DOROTHY JUNE NIEGLOS and is based upon the asserted loss of three Cespedes Sugar Company bonds. 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.

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).)

Claimant asserts an ownership interest in 3 Cespedes Sugar Company bonds which she assertedly inherited from her father, Owen H. Varden, on November 13, 1965. Owen H. Varden assertedly inherited said bonds from his father, Frederick W. Varden, upon his death on June 1, 1958.

By Commission letter of May 27, 1958, it was suggested to claimant, through counsel, that she submit the 3 bonds. However, no bonds in response to this correspondence have been received to date.

On November 8, 1968, counsel was again invited to submit the bonds within 20 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

DEC 18 1968

*Leonard v. B. Sutton*  
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Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
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Theodore Jaffe, Commissioner

*Sidney Freidberg*  
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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).)