

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

IN THE MATTER OF THE CLAIM OF

HAZEL FURLONG, EXECUTRIX
OF THE
ESTATE OF ANNA MARIA ROSE, DECEASED

Claim No. CU -3583

Decision No. CU -3904

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Kent R. Minshall, Esq.

Appeal and objections from a Proposed Decision entered on September 24, 1969;
no oral hearing requested.

Hearing on the record held on March 18, 1970

FINAL DECISION

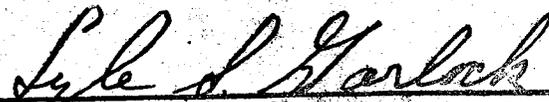
Under date of September 24, 1969, the Commission issued its Proposed Decision denying this claim for failure to sustain the burden of proof.

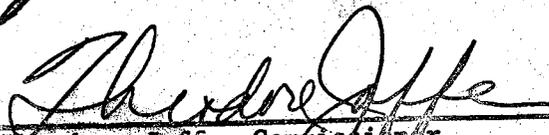
Objections to the Proposed Decision were filed, but the basis thereof was not set forth. Although extensions of time to submit supporting evidence have been granted, no such evidence has been filed.

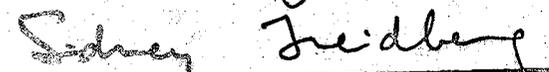
This matter having been duly considered, the Commission finds no valid basis for modifying or otherwise changing the Proposed Decision on this claim. Accordingly, the Proposed Decision is affirmed in all respects and the claim is denied in its entirety.

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

1 APR 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

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Act of 1949, as amended

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 on May 29, 1967 by ANNA MARIA ROSE, now deceased, and is based upon the asserted loss of property in Cuba, including a stockholder's interest in Arco Commercial Company. Decedent had been a national of the United States since her birth in the United States. Hazel Furlong having been appointed Executrix of the decedent's estate, she is substituted as claimant herein.

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 was 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 was originally filed by ANNA MARIA ROSE, now deceased, for the loss of property in Cuba, including an ownership interest in Arco Commercial Company. By Commission letter of July 21, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. No evidence was submitted in support of this claim. On August 12, 1967, the Executrix of the ESTATE of ANNA MARIA ROSE advised that decedent had died on June 10, 1967. The Commission requested a certified copy of the death certificate, Letters Testamentary, and the Last Will and Testament which had been admitted to probate, and these documents were subsequently submitted. In addition, the Executrix was advised to furnish the other suggested evidence set forth in the Commission's letter of July 21, 1967.

By letter dated October 6, 1967, the attorney for the Executrix inquired as to the status of the subject claim. On October 16, 1967, the Commission set forth in detail the type of evidence to submit in

support of this claim. No evidence was submitted.

On January 25, 1968, counsel for the Executrix was invited to submit any evidence available to him within forty-five (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. Again, by letter of May 3, 1968, counsel was reminded of the evidence needed, and the lack in the record of authorization for him to represent claimant. 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 interest 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

SEP 24 1969

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-3583