

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20577

IN THE MATTER OF THE CLAIM OF

THOMAS DOGAS

Claim No. CU-7320

Decision No. CU-5207

Under the International Claims Settlement
Act of 1949, as amended

Represented by Cia. Azucarera Atlantica del Golfo

Counsel for Cia. Azucarera Atlantica del Golfo:
Dewey, Ballantine, Bushby, Palmer & Wood - By William C. Bush, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision issued August 19, 1970, the Commission denied this claim for failure of proof. Since then, claimant has submitted additional evidence and the Proposed Decision is hereby amended.

In our decision entitled the Claim of Helen M. Drye (Claim No. CU-0807 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 \$34.056.

Claimant herein submitted evidence to establish that on April 24, 1961, he and Alice Dogas purchased, as joint tenants, 100 shares of stock of Cia. Azucarera Atlantica del Golfo for a consideration of \$321.75.

Thereafter, in Commission letters of September 14, 1970, October 29, 1970, and December 7, 1970, the Commission suggested that claimant submit evidence pertaining to the United States nationality of Alice Dogas, the owner of a one-half interest in the aforesaid shares. However, claimant has not responded to the correspondence of the Commission.

On the basis of the evidence of record in the instant claim, the Commission finds that claimant herein comes within the terms of the Drye decision and that he was an American national at times requisite to this claim.

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.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on August 6, 1960. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of Samuel J. Wikler, et al., Claim No. CU-2571, 1968 FCSC Ann. Rep. 47.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Commission finds that claimant, as an assignee by purchase, acquired a one-half interest in the claim for the losses sustained by the assignor or assignors of the claimed securities, but under the limitations provided in Section 507 of the Act (supra) is limited to \$160.88, the actual consideration claimant paid for his one-half interest in the shares in question.

The Commission has decided that in certifications of loss 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).

The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from April 24, 1961, the date on which claimant acquired this claim, to the date on which provisions are made for the settlement thereof.

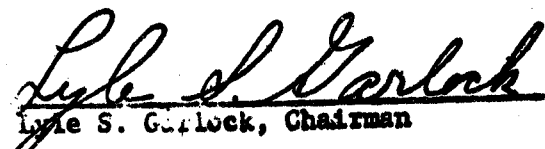
Accordingly the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

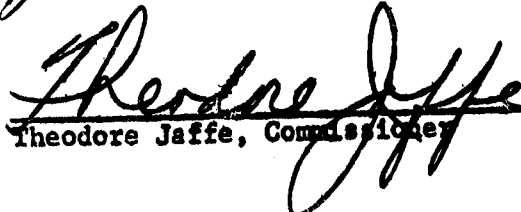
CERTIFICATION OF LOSS

The Commission certifies that THOMAS DOGAS 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 Hundred Sixty Dollars and Eighty-Eight Cents (\$ 160.88) with interest at 6% per annum from April 24, 1961, to the date of settlement.

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

MAR 3 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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 or 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 (1970).)

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OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

THOMAS DOGAS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 7320

Decision No. CU 5207

Represented by Cia. Azucarera Atlantica del Golfo

Counsel for Cia. Azucarera Atlantica del Golfo:

Dewey, Ballantine, Bushby, Palmer & Wood - By William C. Bush, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by THOMAS DOGAS and is based upon the asserted loss of a stock interest. Claimant has been a national of the United States since his naturalization in 1929.

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.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

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).)

Claim is based on loss in connection with asserted ownership of 100 shares of Atlantica del Golfo, said to have been acquired subsequent to August 6, 1960, the pertinent date of loss.

By Commission letter of March 20, 1968, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act, specifically date of purchase and price paid. Thereafter, by letters of June 7, 1968 and January 15, 1969, the Commission made additional suggestions to claimant concerning the submission of this supporting evidence.

On October 14, 1969, claimant was invited to submit the suggested evidence 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.

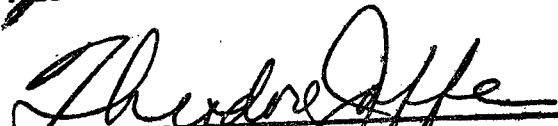
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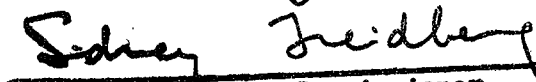
The Commission finds that claimant has not met the burden of proof in that he has failed to establish date of acquisition and consideration paid for ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is 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

AUG 19 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


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).)

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