

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

IN THE MATTER OF THE CLAIM OF

JOHN F. LIPTAK, JR.
RONALD M. LIPTAK

Under the International Claims Settlement
Act of 1949, as amended

Claim No. **CU** -7630

Claim No. **CU**-7631

Decision No. **CU** -5718

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

Under date of September 23, 1970 the Commission issued its Proposed Decision denying these claims for failure to sustain the burden of proof. Subsequently new evidence was submitted, establishing ownership by claimants of stock interests in Atlantica del Golfo Sugar Company.

Upon consideration of the new evidence in the light of the entire record, it is

ORDERED that the Proposed Decision on these claims be amended as follows:

The Commission now finds that each of the claimants owned 50 shares of stock in Atlantica del Golfo Sugar Company since August 24, 1959.

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 allowable 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.

On the basis of evidence in the record in the instant case, the Commission finds that these claims come within the terms of the Drye decision; that they were American nationals at the requisite times; that each of them has been the owner of 50 shares of stock in the Cia. Azucarera Atlantica del Golfo since prior to August 6, 1960, and that each claimant suffered a loss in the amount of \$1,702.80 within the meaning of Title V of the Act. Further, the Commission finds that the amounts 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. (Drye, supra.)

Accordingly, the following certifications of loss will be entered and in all other respects the Proposed Decision is affirmed.


CERTIFICATIONS OF LOSS

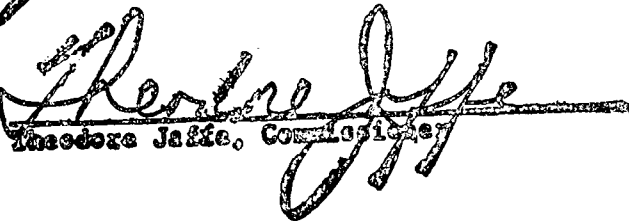
The Commission certifies that JOHN F. LIPTAK, JR. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Seven Hundred Two Dollars and Eighty Cents (\$1,702.80) with interest at 6% per annum from August 6, 1960 to the date of settlement; and

The Commission certifies that RONALD M. LIPTAK 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 Seven Hundred Two Dollars and Eighty Cents (\$1,702.80) 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

OCT 28 1970


Lyda S. Carluck, 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 claimants establish 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, 32 Fed. Reg. 412-13 (1967).)

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PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, were presented by JOHN F. LIPTAK, JR. and RONALD M. LIPTAK and are based upon the asserted loss of stock interests. Claimants have been nationals 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) (1969).)

Each claim is based on loss arising from the asserted ownership of 50 shares of stock of Atlantica del Golfo Sugar Company.

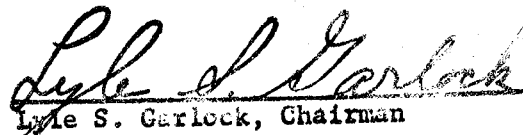
By Commission letters of January 3, 1969, it was suggested that claimants submit the stock certificates in support of his asserted ownership. However, no evidence in response to this correspondence was received.

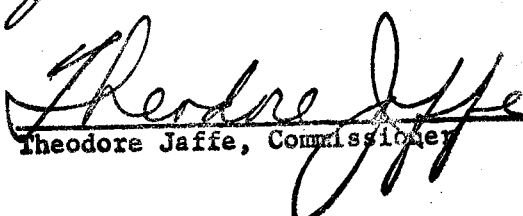
On March 27, 1970, claimants were again invited to submit the suggested evidence within 45 days from that date, and were informed, that, absent such evidence, it might become necessary to determine the claims on the basis of the existing record. Claimants were further informed that they could submit photocopies of the stock certificates or purchase slips. No evidence has since been submitted.

The Commission finds that claimants have not met the burden of proof in that they have 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 these claims and they are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claims.

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

SEP 23 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, 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-7630 & CU-7631