

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

IN THE MATTER OF THE CLAIM OF

SARA H. MAHONEY

Claim No. CU-7696

Decision No. CU -5797

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.

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AMENDED PROPOSED DECISION

Under date of October 14, 1970, the Commission issued its Proposed Decision denying this claim on the ground that claimant had failed to sustain the burden of proof. Subsequently, additional evidence was submitted.

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

ORDERED that the Proposed Decision be amended as follows:

The Commission now finds that claimant owned 400 shares of stock in Atlantica del Golfo Sugar Company since prior to August 6, 1960, and 14 shares of Central Violeta Sugar Co., since prior to October 13, 1960, the dates of loss.

In our decisions entitled the Claim of Helen M. Drye (Claim No. CU-0807) and the Claim of Huntley E. Cox (Claim No. CU-2944) which we incorporate herein by reference, we held that the properties owned by Atlantica and Central Violeta, respectively, were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and October 13, 1960, respectively,

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 Atlantica as \$34.056; and per share of Central Violeta as \$30.4318.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Drye and Cox decisions; that she was an American national at the requisite times; that she has been the owner of 400 shares of stock in the Cia. Azucarera Atlantica del Golfo since prior to August 6, 1960, and that she suffered a loss in the amount of \$6,811.20 within the meaning of Title V of the Act; and that as the owner of 14 shares of Central Violeta since prior to October 13, 1960, she suffered a loss of \$426.05. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from the aforesaid dates of loss, to the date on which provisions are made for the settlement thereof. (See Drye and Cox, supra.)

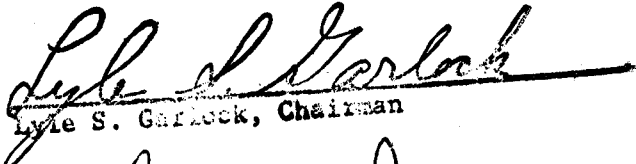
Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

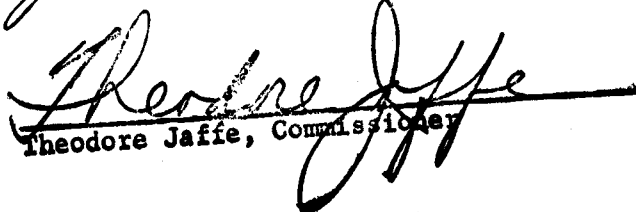
CERTIFICATION OF LOSS

The Commission certifies that SARA H. MAHONEY 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 Seven Thousand Two Hundred Thirty-seven Dollars and Twenty-five Cents (\$7,237.25) with interest at 6% per annum from the aforesaid dates of loss to the date of settlement.

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

NOV 23 1970

  
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. 1.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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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 SARA H. MAHONEY and is based upon the asserted loss of a stock interest. 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.

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) (1969).)


Claim is based on loss in connection with ownership of 400 shares of Atlantica del Golfo Sugar Company, evidenced by photocopies of stock certificates issued on June 29, 1966.

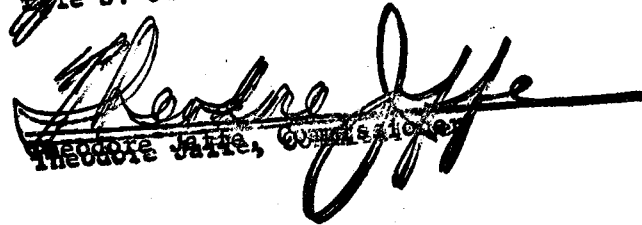
By Commission communication of April 28, 1970 it was suggested that claimant submit evidence of the date of purchase and price paid for the stock. However, no evidence in response to this correspondence has been received.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish the date of acquisition and price 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

OCT 14 1970

  
Paul 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).)