

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

IN THE MATTER OF THE CLAIM OF

MARY G. SCHUMANN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -7893

Decision No. CU 6130

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 MARY G. SCHUMANN and is based upon the asserted loss of stock interests in the Atlantica del Golfo Sugar Company in Cuba. 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) (1970).)

It appears from the record that claimant originally held 100 shares of Cuban Atlantic stock. These were exchanged for 200 shares of Atlantica del Golfo and 7 shares of Central Violeta. It further appears that 100 shares of Atlantica were subsequently sold and that claimant then purchased a second set of Atlantica shares. The record was not clear as to the extent of loss.

By Commission letter of January 6, 1969 claimant was advised to submit the original stock certificates. Claimant replied that these certificates were not in her possession and enclosed statements of stockbrokers concerning her stock interests. Thereafter the Commission made further suggestions. However on November 15, 1970 claimant advised the Commission that she had sold her Cuban sugar stock several years ago and that she had no further interest in the claim.

Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owners two items of property, namely, an


interest in the net worth of the corporation and an interest in any claim for the nationalization. The sale of the shares in the nationalized corporation may effect transfer of either or both interests, depending upon the intention of the parties to the transaction. The burden of proving the nature of the transaction rests with the claimant.

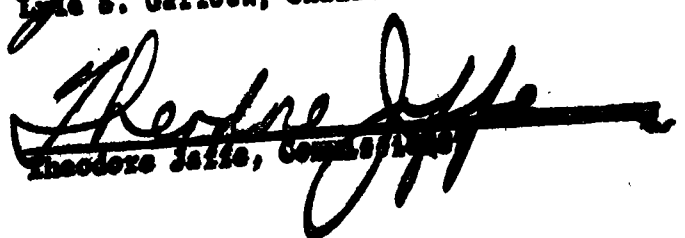
In the instant claim claimant has not alleged that she retained any interest in a claim for the nationalization of the corporation in question nor does the record establish that any such interest was retained. On the contrary, the Commission concludes that when claimant sold her stock, she transferred all rights incident thereto. (See Claim of Harry Mitgang, Claim No. CU-2649.)

Accordingly, and for the foregoing reasons, this claim is denied. The Commission deems it unnecessary to determine other elements of this claim.

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

MAR 24 1971

  
Luke 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 (1970).)