

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

IN THE MATTER OF THE CLAIM OF

DORIS ABBOTT HEDGES, INDIVIDUALLY
and
DORIS ABBOTT HEDGES, AS MOTHER AND
NATURAL GUARDIAN OF
MARIA TERESA HEDGES, A MINOR

Claim No. CU -3436

Decision No. CU-5727

Under the International Claims Settlement
Act of 1949, as amended

AMENDED FINAL DECISION

The Commission issued its Proposed Decision in this matter on August 19, 1970, forwarding copy to claimant's only known address, at Insurgentes Sur 724 - 600, Mexico, 12, D. F. The decision was entered as Final on September 22, 1970. On October 22, 1970, the Proposed Decision and covering letter were received in the Commission, marked to indicate that claimant had moved. Upon consideration of this matter, the Final Decision is amended.

The Regulations of the Commission provide:

Service by first class mail shall be regarded as complete, upon deposit in the United States mail properly stamped and addressed. [FCSC Reg., 45 C.F.R. §501.3(d) (1969).]

Without previous hearing, the Commission may issue a proposed decision in determination of a claim. [FCSC Reg., 45 C.F.R. §531.5(b) (1969).]

Such proposed decision shall be delivered to the claimant or his attorney of record in person or by mail. Delivery by mail shall be deemed completed 5 days after the mailing of such proposed decision addressed to the last known address of the claimant or his attorney of record. One copy of the proposed decision shall be available for public inspection at the office of the Commission. Notice of proposed decision shall be posted on the bulletin board at the office of the Commission on the day of its issuance and for 20 days thereafter. [FCSC Reg., 45 C.F.R. §531.5(c) (1969).]

General notice of the Proposed Decision having been given by posting for twenty days, and no objections having been filed, the Proposed Decision is hereby affirmed.

Copy of this Final Decision will be mailed to claimant at her last known address and such mailing shall constitute service thereof in accordance with Section 501 of the Commission's Regulations.

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

OCT 28 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$100,635.16, was presented by DORIS ABBOTT HEDGES, INDIVIDUALLY and DORIS ABBOTT HEDGES, AS MOTHER AND NATURAL GUARDIAN OF MARIA TERESA HEDGES, A MINOR, based upon the asserted loss of certain personal property in Cuba. 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.

The evidence includes a copy of a contract, dated in Havana, Cuba, October 28, 1958, pursuant to which the equivalent of \$100,000.00 was deposited by Burke Hedges, father of MARIA TERESA HEDGES, and husband of DORIS ABBOTT HEDGES, with the Banco Hipotecario Mendoza. This deposit was made in connection with a divorce settlement concluded by Mr. and Mrs. Burke Hedges. The bank was designated as trustee for the benefit of the minor child with authority to invest the funds in certain securities, and pay Mrs. Hedges an income for life. The record shows that investments were made and that Mrs. Hedges received regular payments. In addition, certain amounts accrued in favor of the minor, which amounts were maintained in banks in Cuba.

On the basis of the entire record, the Commission finds that MARIA TERESA HEDGES was the beneficial owner of certain securities and bank accounts, discussed in detail below, subject to a life estate in favor of her mother, DORIS ABBOTT HEDGES, as to the securities.

Cuban Telephone Company Stock

The Commission finds on the basis of the evidence of record that claimants owned interests in 200 shares of common stock in the Cuban Telephone Company.

The Commission has held that a claim based upon shares of stock in the Cuban Telephone Company is within the purview of Title V of the Act although the Cuban Telephone Company was a national of the United States at all pertinent times, because that corporation is now defunct. (See Claim of International Telephone and Telegraph Corporation, Claim No. CU-2615.) In that claim, the Commission found that the assets of the Cuban Telephone Company had been taken by the Government of Cuba on August 6, 1960; and that the value of one share of common stock therein on the date of loss was \$184.0057. The Commission therefore finds that on August 6, 1960, the date of loss, the 200 shares herein had a value of \$36,801.14. The record shows that DORIS ABBOTT HEDGES, who owned a life estate in the property, was 39 years of age on the date of loss.

With respect to the values of life estates and remainder interests, the Commission has adopted the Makehamized mortality table used by the United States Treasury Department in connection with the collection of gift and estate taxes. (See Claim of Richard Franchi Alfaro and Anna Alfaro, Claim No. CU-0048, 1967 FCSC Ann. Rep. 71.) Pursuant to that method of valuation, a life estate in property of a person 39 years of age is valued at 63.898% of the estate. Since the encumbered property had a value of \$36,801.14, the value of the life estate was \$23,515.19, and the value of the minor's remainder interest (36.102%) was \$13,285.95. The Commission therefore concludes that claimants sustained losses in those amounts.

7% Mortgage Bonds

The Commission finds on the basis of the evidence of record that claimants owned interests in certain 7% mortgage bonds issued by a Cuban firm and secured by a mortgage on an apartment house and lot in Marianao, Havana, Cuba.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Article 30 provided for the cancellation of all mortgages. The Commission therefore finds that claimants' mortgage was taken by the Government of Cuba on October 14, 1960. (See Claim of the Estate of Marita Dearing de Lattre, Deceased, Claim No. CU-0116.)

The record shows that the face amount of the mortgage bonds was \$28,000.00, and that interest thereon at the rate of 7% per year had been last paid for the period ending September 4, 1960. Accordingly, the Commission finds that on October 14, 1960, the date of loss, the aggregate amount of the mortgage debt was \$28,217.77, representing \$28,000.00 in principal and \$217.77 in interest.

Since Mrs. Hedges was 39 years of age on the date of loss, her interest in the debt was equal to 63.898% or \$18,030.59, and the minor's remainder interest had a value of \$10,187.18. The Commission concludes that claimants sustained losses in those amounts.

Other Securities

A portion of the claim is based upon other securities acquired by the trustee for the benefit of claimants. The record shows that those securities

consisted of bonds issued by certain American corporations and by the City of Montreal, Canada. The evidence fails to establish that any of the bonds were secured by property taken by the Government of Cuba, or that claimants' bonds were otherwise taken by Cuba.

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).)

The Commission finds that claimants have failed to sustain the burden of proof with respect to the portion of the claim based on the said bonds. Accordingly, this portion of the claim is denied.

Bank Accounts

The record shows that the trustee accumulated 3 bank accounts for the sole benefit of MARIA TERESA HEDGES, the minor. One account was maintained at the Chase Manhattan Bank, Havana Branch, and the other two at the Banco Hipotecario Mendoza, Havana, Cuba.

Law 989, published in the Cuban Official Gazette on December 6, 1961, by its terms effected the confiscation of all goods and chattels, rights, shares, stocks, bonds and other securities, as well as bank accounts of persons who left Cuba. The Commission finds that this law applied to the 3 bank accounts herein. In the absence of evidence to the contrary, the Commission finds that the 3 bank accounts were taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

The record shows that the 3 bank accounts had credit balances of \$635.16 (Chase Manhattan Bank), \$4,594.00 (Mendoza, Account No. 437), and \$2,800.15 (Mendoza, Account No. 438). The Commission therefore finds that on December 6, 1961, the date of loss, the aggregate value of the 3 bank accounts was \$8,029.31. The Commission concludes that MARIA TERESA HEDGES sustained a loss in that amount.

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Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>DORIS ABBOTT HEDGES</u>		
Cuban Telephone Company Stock	August 6, 1960	\$23,515.19
Mortgage Bonds	October 14, 1960	<u>18,030.59</u>
	Total	<u>\$41,545.78</u>
<u>MARIA TERESA HEDGES</u>		
Cuban Telephone Company Stock	August 6, 1960	\$13,285.95
Mortgage Bonds	October 14, 1960	10,187.18
Bank Accounts	December 6, 1961	<u>8,029.31</u>
	Total	<u>\$31,502.44</u>

The Commission has decided that in certification of losses 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); and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
<u>DORIS ABBOTT HEDGES</u>	
August 6, 1960	\$23,515.19
October 14, 1960	<u>18,030.59</u>
Total	<u>\$41,545.78</u>
<u>MARIA TERESA HEDGES</u>	
August 6, 1960	\$13,285.95
October 14, 1960	10,187.18
December 6, 1961	<u>8,029.31</u>
Total	<u>\$31,502.44</u>

CERTIFICATION OF LOSS

The Commission certifies that DORIS ABBOTT HEDGES 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 forty-one thousand five hundred forty-five dollars and seventy-eight cents (\$41,545.78) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

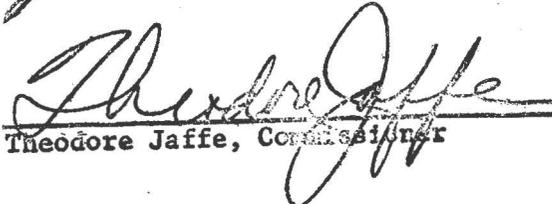
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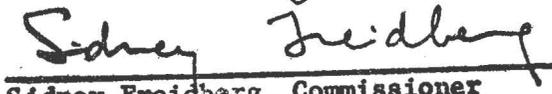
The Commission certifies that DORIS ABBOTT HEDGES, MOTHER AND NATURAL GUARDIAN OF MARIA TERESA HEDGES, A MINOR, suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-One Thousand Five Hundred Two Dollars and Forty-Four Cents (\$31,502.44) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

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 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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