

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

IN THE MATTER OF THE CLAIM OF

ADOLPH G. LURIE

Claim No. CU-3639

Decision No. CU-857

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Harvey L. Koizim, Esq.

Appeal and objections from a Proposed Decision entered on April 10, 1968. Oral hearing was scheduled for June 18, 1968 at 10:00 a.m. at the offices of the Commission, 1111-20th Street, Northwest, Washington, D.C. with due notice thereof given to the claimant. No request for a continuance was made and the claimant failed to appear in person or by attorney at the scheduled time.

FINAL DECISION

Amended F.D. follows

Full consideration having been given to the objections of the claimant, and the entire record having been reviewed, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that the Proposed Decision be and the same is hereby affirmed as the Final Decision of the Commission in this claim.

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

3 JUL 1968

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

BARBARA LURIE TIROLA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3639

Decision No. CU -0857

Counsel for Claimant:

Koizim & Tirola
By: Vincent S. Tirola, Esq.

AMENDED FINAL DECISION

Adolph G. Lurie filed a claim under Title V of the International Claims Settlement Act of 1949, as amended, based upon the asserted loss of 900 shares of stock of the Havana Lithographing Company (Cia Litografica de la Habana, S.A.). Adolph G. Lurie, a national of the United States since birth, advised that on December 5, 1961, he sold the stock interest in question through his broker in New York City and subsequently took a tax loss in connection with the sale. The Commission issued its Proposed Decision in this claim on December 20, 1967, finding that while claimant may have had a claim for loss of his interest in Havana Lithographing Company, a nationalized corporation doing business in Cuba, he no longer owned a claim after his sale of the stock in 1961. Thereafter, the Commission affirmed the Proposed Decision, issuing a Final Decision on July 3, 1968.

Adolph G. Lurie submitted evidence, including affidavits and broker transaction slips, showing that when he sold the stock in question on December 5, 1961, his daughter, Barbara Lurie Tirola, purchased 900 shares of Havana Lithographing Company stock on that date for \$477.00; and that such shares of stock have been held in her account with her broker, Hirsch & Company, since the date of purchase. While Adolph G. Lurie sold his stock and effectively disposed of his claim for the loss of

such stock, which he held continuously from the date of loss, it appears that his daughter acquired 900 shares of stock on December 5, 1961, and it is hereby

ORDERED that BARBARA LURIE TIRGELA, a national of the United States since birth, be substituted as a claimant in this matter.

The record discloses that Havana Lithographing Company was nationalized by the Government of Cuba pursuant to Law 890 on October 13, 1960. This company was organized under the laws of Cuba and does not qualify as a corporate "national of the United States", as defined under Section 502(1)(B) of the Act, that is, as a corporation or legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico. Therefore, claimant is entitled to file this claim as an American stockholder for loss of her ownership interest in a Cuban corporation. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for 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. Since the loss occurred on October 13, 1960, and since claimant herein did not acquire the stock interest in question until December 5, 1961, there is a question as to continuous ownership by a United States national of the securities from the date of loss to the date on which claimant acquired them by purchase.

Claimant has asserted that she purchased the shares of her father, Adolph G. Lurie, a national of the United States since birth, in a cross-sale. The evidence of record, including an affidavit of claimant's broker, dated January 10, 1963, discloses that on December 5, 1961, claimant did purchase 900 shares of Havana Lithographing Company for a consideration of \$477.00.

In any event, 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 the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

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.

Accordingly, the Commission finds that claimant, BARBARA LURIE TIROLA, as an assignee by purchase, acquired the claim for the loss sustained by the assignor of the claimed securities, but under the limitations provided in Section 507 of the Act, is limited to \$477.00, the actual consideration paid for these shares.

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).

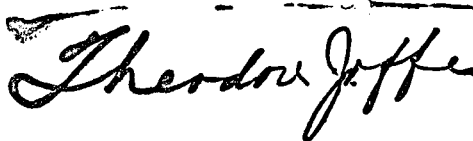
The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from December 5, 1961, the date on which claimant acquired this claim, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

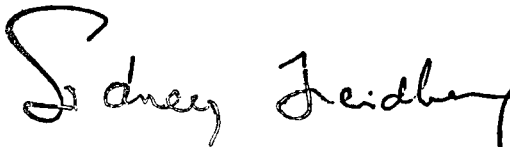
The Commission certifies that BARBARA LURIE TIROLA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Seventy-Seven Dollars (\$477.00) with interest at 6% per annum from December 5, 1961 to the date of settlement.

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

7 JAN 1970



Theodore Jaife, Commissioner



Sidney Berg, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ADOLPH G. LURIE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3639

Decision No. CU

857

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 \$2,456.00, was presented by ADOLPH G. LURIE, based upon the asserted loss of a stock interest in the Havana Lithographing Company. Claimant, ADOLPH G. LURIE, has been a national of the United States since his 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.

Evidence of record discloses that claimant, ADOLPH G. IURIE, purchased 900 shares of Havana Lithographing Company stock on various dates between March 8, 1951, and December 22, 1959; and that the Havana Lithographing Company was nationalized or otherwise taken by the Government of Cuba in 1960. The record also discloses that on December 5, 1961, the claimant herein sold the 900 shares of stock in the Havana Lithographing Company through his broker in New York City.

An examination of the claim form and correspondence indicates that claimant is asserting his claim on alternative grounds, either: 1. for the loss of his stock interest, or, 2. for the decrease in value of his stock shares.

Under the aforesaid provisions of the Act it is apparent that in order to establish a compensable claim, the claimant must establish ownership of the property in question at the time of the asserted loss, and ownership of the claim therefor continuously from the time of loss to filing claim with this Commission. In the instant claim, the claimant sold the stock in the aforesaid company in 1961, which was prior to the date of filing this claim on May 31, 1967. Thus, while claimant may have been the owner of the stock at the time of loss, he was not the owner of the claim at the time of filing claim

herein. Accordingly, the Commission finds that a claim based on the loss of the stock interest would not be compensable under the provisions of the Act. (See the Claim of Michael Vasti, FCSC Claim No. CU-2145).

If claimant has based his claim, not on the loss of his stock interest, but rather, for the difference between the value at time of purchase and the 1961 selling price, then the question is presented as to whether such a claim is compensable under the Act.

Ownership of a stock interest in a foreign corporation vests, in the owner, two items of property: an interest in the net worth of the corporation and an interest in any claim for nationalization. Upon a sale of that stock interest, and in the absence of any specific reservation, the seller transfers all rights incident to that stock. Claimant has neither alleged or proven that he retained any interest in a claim for the nationalization of corporate assets or other rights incident to these shares of stock.

Therefore, while claimant may have had a claim for his interest in the nationalized company, he no longer owned a claim after the 1961 sale of his stock. The sole claim owned by him was his interest in a corporation nationalized by the Government of Cuba; not for any decrease in the value of his stock shares. While claimant may have sustained a loss on the sale of his interest, it was not a loss on which the Commission, under the provisions of the Act, could render a favorable determination. (See the Claim of John A. Stiehler, FCSC Claim No. CU-2725).

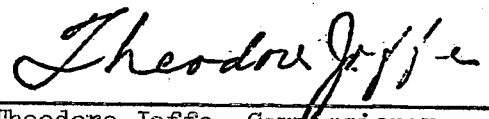
Since claimant has not established that he retained any interest in a claim for the nationalization of the company, and since a claim for the decrease in value of his stock would not be compensable under the Act, this claim must be, and is, denied.

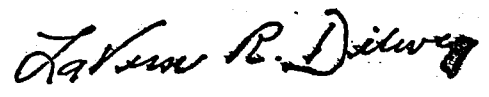
The Commission deems it unnecessary to determine other elements of this claim.

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

20 DEC 1967

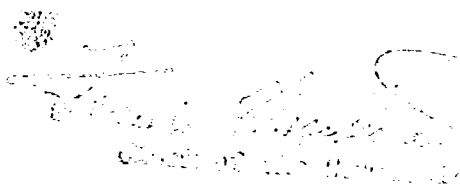

Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner

CERTIFICATION

THIS IS A TRUE AND CORRECT COPY OF THE DECISION
OF THE COMMISSION WHICH WAS ENTERED AS THE FINAL
DECISION ON _____



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).)