

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

IN THE MATTER OF THE CLAIM OF

JAY E. LESHAW, EXECUTOR
OF THE ESTATE OF
HARRY J. LOUIS, DECEASED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0261

Decision No. CU 4889

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,805,193.03, based on loss of stock interests, debt and anticipated profits, was presented by HARRY J. LOUIS, a national of the United States since his naturalization in 1943. Upon his death thereafter, JAY E. LESHAW was appointed Executor of his Estate, and is substituted as claimant in this matter.

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 claim is based on \$55,193.03, including a \$5,000.00 debt, representing an asserted investment in Anuncios Cuba Trafico, S.A., and \$1,750,000.00 for asserted loss of anticipated profits on 490 shares for eighteen years subsequent to cancellation in 1959 of its concession to install bus stop signs.

In our decision entitled the Claim of Philip A. Lukin (Claim No. CU-0854 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 April 22, 1959 and that this type of claim is compensable 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 \$19.2944.

On the basis of evidence in the record in the instant case, the Commission finds that this decedent came within the terms of the Lukin decision; that he was an American national at the requisite times; that he had been the owner of 490 shares of stock in Anuncios since prior to April 22, 1959, and that he suffered a loss in the amount of \$9,454.26, in that connection.

Additionally, the record shows and the Commission finds that at the time of loss Anuncios was indebted to the decedent here in the amount of \$5,000.00 and that he thus suffered a further loss in that amount.

There remains for consideration the item of claim based on anticipated profits for the remaining eighteen years of the concession. The decedent did not set forth the method of estimating this asserted profit, but it appears from a related claim (Claim of Alfred H. Schultz, Claim No. CU-0261) that it was figured at the rate of approximately \$200,000.00 per year.

The authority of the Commission in these cases is limited by Section 503(a) of Title V to claims which arose after January 1, 1959 resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property by the Government of Cuba.

A claim for the loss of profits under the statute therefore must be supported by evidence which brings it within the above-quoted provision. The nationalization or other taking of Anuncios on April 22, 1959, in and of itself is not proof of loss of anticipated profits. Moreover, the concession or franchise of 1957, was not in any way irrevocable. No evidence has been submitted to support a finding that the asserted loss of profits was caused by any action of the Government of Cuba within the purview of the statute. On the other hand, the record includes a letter written by the decedent on December 31, 1959, in which he discusses the circumstances concerning Anuncios, and specifically states that all their clients have cancelled.

In view of the foregoing, the portion of the claim based upon the loss of profits must be and is hereby denied. (See Claim of Ford Motor Company, Claim No. CU-3072.)

Accordingly, the Commission holds that JAY E. LESHAW, EXECUTOR OF THE ESTATE OF HARRY J. LOUIS, DECEASED, succeeded to and suffered a loss of \$14,454.26 within the meaning of Title V of the Act, as a result of the actions of the Government of Cuba.

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.

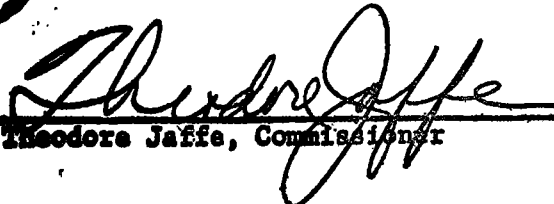
CERTIFICATION OF LOSS

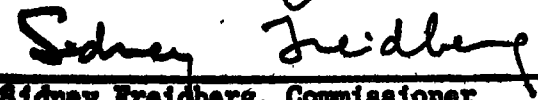
The Commission certifies that JAY E. LESHAW, EXECUTOR OF THE ESTATE OF HARRY J. LOUIS, DECEASED, succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fourteen Thousand Four Hundred Fifty-four Dollars and Twenty-six Cents (\$14,454.26) with interest thereon at 6% per annum from April 22, 1959 to the date of settlement.

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

MAY 27 1970


Lois 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. 101.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)