

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

**IN THE MATTER OF THE CLAIM OF**

LAWRENCE J. HODGE  
and  
THE FLORIDA NATIONAL BANK  
AND TRUST COMPANY AT MIAMI,  
Executor of the Estate of  
FRANCES H. HODGE, Deceased

**Claim No. CU - 0540**

**Decision No. CU - 5864**

**Under the International Claims Settlement  
Act of 1949, as amended**

Counsel for claimant:

Jordan Peck, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by LAWRENCE J. HODGE and FRANCES H. HODGE for \$350,000.00 based upon the asserted ownership and loss of stock interests in Cuba. Claimant LAWRENCE J. HODGE has been a national of the United States since his naturalization on May 12, 1941. FRANCES H. HODGE, a national of the United States since birth, died on April 11, 1968, and the Executor of her Estate has been substituted as claimant.

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.

Claimants described their losses as an aggregate of 51 per cent of Standard Cap and Seal, S.A., a Cuban corporation.

On the basis of the affidavit of LAWRENCE J. HODGE, executed on October 1, 1963, the Commission finds that Standard Cap had 1,740 shares outstanding.

Stock certificates were submitted reflecting the following:

852 shares issued to LAWRENCE J. HODGE  
2 shares issued to FRANCES H. HODGE and endorsed  
to LAWRENCE J. HODGE  
26 shares issued to FRANCES H. HODGE, not endorsed  
7 shares issued to Enrique Porro Esteva  
six of which had been endorsed  
to LAWRENCE J. HODGE

The record does not establish that the last listed seven shares had been transferred to LAWRENCE J. HODGE prior to the date of loss. Accordingly, these cannot be considered within the scope of Title V of the Act, as it is not shown that they were held by a United States national on the date of loss.

On the basis of this record, the Commission finds that LAWRENCE J. HODGE owned 854 shares and FRANCES H. HODGE, now deceased, owned 26 shares of Standard Cap at the date of loss.

The record discloses that Standard Cap was intervened by the Government of Cuba on December 28, 1961 pursuant to an Act of the Minister of Labor. It was thereafter confiscated on February 6, 1962. This corporation, having been organized under the laws of Cuba, does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons

who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." The Commission has concluded that this phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Claimant LAWRENCE J. HODGE has based his valuation on a 1958 offer to buy the entire stock for \$700,000. In this connection the record contains a joint declaration by the former President and the former Treasurer of Standard Dairy Supplies, S.A., reciting the offer by this corporation to purchase all the capital stock of Standard Cap and the net assets of the Cuban branch of C.A. Anca de Inversiones for \$700,000. In fact, as LAWRENCE J. HODGE has explained in his letter of June 25, 1968 the said net assets were the 49% interest in Standard Cap.

In his letter of May 7, 1968, claimant LAWRENCE J. HODGE stated that the fair market value at the time of confiscation of Standard Cap was two million dollars, but he has not substantiated this.

There has also been submitted the Agreement of 1956 whereby 49% of Standard Cap was sold for \$150,000.

Additionally the file includes photographs of the equipment and machinery in the factory and warehouses, supplies and lists of the users of the product which consisted of tamper proof closures for milk bottles. However, no accounting records, balance sheets, or profit and loss statements have been submitted which would establish an increase in value for the enterprise since the sale of 49% of the stock in 1956.

Based on the entire record, the Commission finds that the value of Standard Cap on December 28, 1961 was \$306,122.44 and that the loss per share for each of the 1,740 shares was \$175.9324.

Accordingly, the Commission finds that claimant LAWRENCE J. HODGE as holder of 854 shares of Standard Cap, suffered a loss in the amount of \$150,246.27 as a result of the intervention of Standard Cap by the Government of Cuba; and that the Executor of the Estate of FRANCES H. HODGE, Deceased, has succeeded to a loss in the amount of \$4,574.24, suffered by FRANCES H. HODGE as holder of 26 shares of Standard Cap.

The Commission has decided that in certifications of loss 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.

#### CERTIFICATIONS OF LOSS


The Commission certifies that LAWRENCE J. HODGE 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 One Hundred Fifty Thousand Two Hundred Forty-Six Dollars and Twenty-Seven Cents (\$150,246.27) with interest at 6% per annum from December 28, 1961 to the date of settlement; and

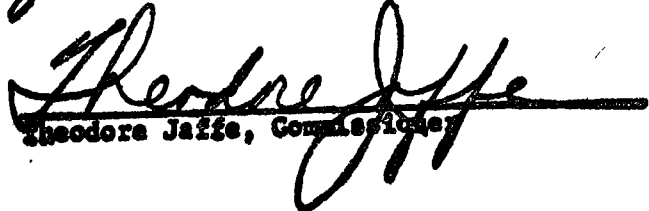
CU-0540

The Commission certifies that THE FLORIDA NATIONAL BANK AND TRUST COMPANY AT MIAMI, Executor of the Estate of FRANCES H. HODGE, 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 Four Thousand Five Hundred Seventy-Four Dollars and Twenty-Four Cents (\$4,574.24) with interest at 6% per annum from December 28, 1961 to the date of settlement.

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

**SEP 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 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).)