

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

IN THE MATTER OF THE CLAIM OF

JEFFREY J. SHAPIRO

Claim No. CU - 1419

Decision No. CU-6805

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Shapiro, Fried, Weil & Scheer  
By Herbert S. Shapiro, Esq.

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Appeal and objections from a Proposed Decision entered on September 1, 1971.  
Oral hearing requested.

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Oral hearing held on October 13, 1971.

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FINAL DECISION

By Proposed Decision issued September 1, 1971 the Commission certified a loss to claimant JEFFREY J. SHAPIRO in the amount of \$407,368.52. Parts of the claim based on shareholders' interests in seven Cuban corporations were denied for claimant's failure to establish the net value of said corporations at the time of loss; parts of the claim based on certain real property were denied for failure of proof in general.

At an oral hearing held October 13, 1971 argument was made by counsel and new evidence was submitted.

Based on the entire record the Commission now finds that all seven corporations listed below were taken by the Government of Cuba on October 13, 1960 and that the extent of claimant's interest and the value of such interest at the time of loss was as follows:

<u>Item</u>	<u>Ownership</u>	<u>Value</u>
1. Parcelacion Wilcha, S.A.	12.5%	\$ 31,875.00
2. Mirabel, S.A.	6.25%	29,719.32
3. Urbanizadora Las Palmas, S.A.	6.25%	21,250.00
4. Las Culebrines, S.A.	6.25%	10,625.00
5. Urbanizadora Ariguanevo, S.A.	6.25%	4,250.00
6. Inmobiliaria La Lisa, S.A.	12.5%	3,187.50
7. Taller De Confecciones	12.5%	<u>1,062.50</u>
Total		\$101,969.32

The Commission further finds that Mirabel (item 2) was indebted to claimant for unpaid dividends in the amount of \$1,562.50 based on his 6.25% interest in said firm and, in addition, said firm owed a debt to claimant in the amount of \$3,600.00.

As to certain real property the Commission finds that claimant was the owner of unimproved land in La Coronela; unimproved land in Barlovento and of improved realty in Capsas. All three parcels were taken by the Government of Cuba on October 14, 1960. At the time of loss they had respective values of \$9,000.00; \$14,000.00 and \$20,000.00, totalling \$43,000.00.

Claimant's losses are restated as follows:

<u>Item</u>	<u>Amount</u>	<u>Date of Loss</u>
Calle 40A, Miramar	\$ 47,500.00	October 14, 1960
Personal Property	1,690.00	October 14, 1960
Auto	2,000.00	October 14, 1960
Tiendas	319,407.91	October 13, 1960
Ellis	36,770.61	October 13, 1960
Additional stock interests	101,969.32	October 13, 1960
Dividends	1,562.50	October 13, 1960
Debt	3,600.00	October 13, 1960
Real property: La Coronela, Barlovento and Capsas	<u>43,000.00</u>	October 14, 1960
Total	\$557,500.34	

The Commission affirms its holding that interest shall be included in the Certification, and it shall be included as follows:

<u>From</u>	<u>On</u>
October 14, 1960	\$ 94,190.00
October 13, 1960	<u>463,310.04</u>
	\$557,500.34


Accordingly, the Certification of Loss in the Proposed Decision is set aside, the following Certification of Loss will be entered, and in all other respects the Proposed Decision as amended herein, is affirmed.

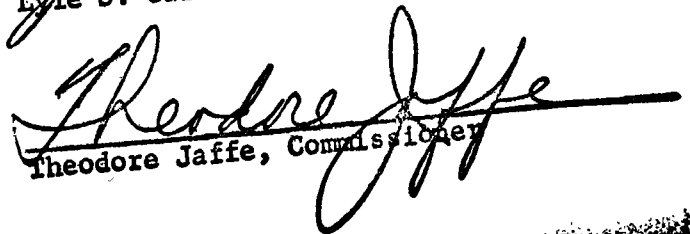
CERTIFICATION OF LOSS

The Commission certifies that JEFFREY J. SHAPIRO 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 Five Hundred Fifty-Seven Thousand Five Hundred Dollars and Thirty-Four Cents (\$557,500.34) 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 Final  
Decision of the Commission

OCT 20 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

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OF THE UNITED STATES  
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Claim No. CU - 1419

Decision No. CU 6805

Counsel for claimant:

Shapiro, Fried, Weil & Scheer  
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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 amended amount of \$741,030.00 was presented by JEFFREY J. SHAPIRO based upon the loss of certain real and personal property 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.

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).)

Claimant asserts the following losses:

	<u>Asserted Value</u>
1. Unimproved land in La Coronela	\$ 9,000.00
2. Unimproved land in Barlovento	14,000.00
3. Apartment building in Miramar (1/4 interest)	62,500.00
4. Improved realty in Capsas, Marianao	20,000.00
5. Automobile	2,800.00
6. Personal property	10,230.00
7. Securities	
(a) Tiendas Los Precios Fijos, S.A. (12.5%)	437,500.00
(b) Ellis Hosiery Mills of Cuba, S.A. (12.5%)	62,500.00
(c) Parcelacion Wilcha, S.A. (12.5%)	37,500.00
(d) Mirabel, S.A. (6.25%)	37,500.00
(e) Urbanizadora Las Palmas, S.A. (6.25%)	25,000.00
(f) Las Culebrines, S.A. (6.25%)	12,500.00
(g) Urbanizadora Ariguanevo, S.A. (6.25%)	5,000.00
(h) Inmobiliaria La Lisa, S.A. (12.5%)	3,750.00
(i) Taller De Confecciones (12.5%)	<u>1,250.00</u>
Total	\$741,030.00

- (3) Apartment Building, Miramar
- (5) Automobile

Based on the evidence of record the Commission finds that claimant JEFFREY J. SHAPIRO owned a 1/4 interest in improved real property at Calle 40A, Miramar, Havana.

In the Claim of Carol Betty Siegler, Claim No. CU-1727, Amended Proposed Decision No. CU-6204, the Commission found that this property was taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law and that at the time of loss the equity in the property had a value of \$190,000.00. The Commission concludes that claimant suffered a loss in the amount of \$47,500.00 for his 1/4 interest in the property.

Further, the Commission finds that claimant was the owner of a 1956 Oldsmobile 98 Convertible, also taken by the Government of Cuba on October 14, 1960, which had a value of \$2,000.00 at that time, and that he suffered a loss in that amount.

(6) Personal Property

A part of the claim for personal property is asserted in the amount of \$3,000.00 for a book collection and \$4,575.00 for loss of boats. The evidence of record does not establish the ownership, loss and value of these items. The burden of proof has not been met in this respect and, accordingly, this part of the personal property claim is denied. As to the balance of the claim for personal property consisting of furniture and fixtures, claimant has submitted a list totaling \$2,655.00. The Commission has determined that apart from antiques not subject to depreciation, furniture and appliances must be depreciated at a rate of 5 per cent per annum; and furnishings including drapes, lamps, clothing, must be depreciated at 10 per cent per year. Accordingly, the Commission finds that the personalty owned by claimant had a value of \$1,690.00 on October 14, 1960, the date of loss, and that claimant suffered a loss in this amount within the meaning of Title V of the Act.

(7) Securities

- (a) Tiendas Los Precios Fijos, S.A.
- (b) Ellis Hosiery Mills of Cuba, S.A.

On the basis of evidence of record the Commission finds that claimant is, and since prior to October 13, 1960, has been the owner of 12.5% of the outstanding stock of both Tiendas Los Precios Fijos, S.A., hereinafter referred to as Tiendas, and Ellis Hosiery Mills of Cuba, S.A., hereinafter referred to as Ellis.

In our decision entitled the Claim of Harold Tanenbaum and Dorothea Tanenbaum, (Claim No. CU-1422) we held that the properties of Tiendas and Ellis were both nationalized by the Government of Cuba on October 13, 1960 and that at the time of loss the net worth of Tiendas and Ellis was \$2,452,377.01 and \$294,164.88, respectively.

In addition, the schedules to the balance sheet of Tiendas reflect that the liabilities include an account payable to claimant in the amount of \$12,860.79. In this regard the Commission has held that debts of an intervened or nationalized Cuban corporation owed to an American claimant constitute losses occurring on the date of intervention or nationalization within the meaning of Title V of the Act. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

In view of the above the Commission finds that JEFFREY J. SHAPIRO suffered a loss in the amount of \$306,547.12, the value of his 12.5% stock interest in Tiendas and \$12,860.79, the amount of the debt owed to him by Tiendas, or the aggregate amount of \$319,407.91 as a result of the nationalization of Tiendas and that he also suffered a loss in the amount of \$36,770.61, the value of his 12.5% stock interest when Ellis was nationalized by the Government of Cuba.

- (1) Unimproved land, La Coronela
- (2) Unimproved land, Barlovento
- (4) Improved realty, Capsas

The Commission finds that the evidence of record in support of the above-numbered (1), (2) and (4) items of the claim is of insufficient probative value to establish the asserted 100% ownership of the properties and the asserted value. The burden of proof has not been met in this respect and, accordingly, these parts of the claim are denied.

Securities:

- (c) Parcelacion Wilcha, S.A.
- (d) Mirabel, S.A.
- (e) Urbanizadora Las Palmas, S.A.
- (f) Las Culebrines, S.A.
- (g) Urbanizadora Ariguanevo, S.A.
- (h) Inmobiliaria La Lisa, S.A.
- (i) Taller de Confecciones

In reference to all of the above properties, some evidence has been submitted which reflects that all of the listed entities were corporations incorporated under the laws of Cuba; the percentage of ownership held by claimant, JEFFREY J. SHAPIRO, of the outstanding shares and the nationalization of the firms by the Government of Cuba.

Persuasive evidence of record in support of the asserted values of the corporations has not been submitted. The total assets of each corporation are approximated but there is no evidence of value independent of the assertions, such as balance sheets; profit and loss statements; schedules; ledger or business records, and liabilities of a particular or general nature are not listed.

From the foregoing it is obvious that the value of these Cuban corporations cannot be readily determined. By Commission letter of January 5, 1971 counsel was advised of this matter and was advised to submit documentation in support of the asserted value. No further evidence of value has been submitted.

The Commission finds that the burden of proof has not been met in this respect. Accordingly, these parts of the claim are denied.

Recapitulation

Claimant's losses are summarized as follows:

<u>Item</u>	<u>Amount</u>	<u>Date of Loss</u>
Calle 40A, Miramar	\$ 47,500.00	October 14, 1960
Personal Property	1,690.00	October 14, 1960
Auto	2,000.00	October 14, 1960
Tiendas	319,407.91	October 13, 1960
Ellis	36,770.61	October 13, 1960
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Total	\$407,368.52	

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-0466), and in the instant case it is so ordered, as follows:

<u>From</u>	<u>On</u>
October 14, 1960	\$ 51,190.00
October 13, 1960	<u>356,178.52</u>
	\$407,368.52




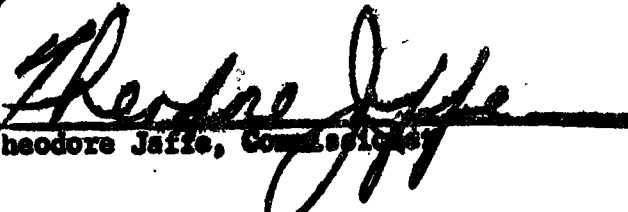
CERTIFICATION OF LOSS

The Commission certifies that JEFFREY J. SHAPIRO 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 Seven Thousand Three Hundred Sixty-eight Dollars and Fifty-two Cents (\$407,368.52) 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

**SFP 1 1971**

  
Paul S. Carlock, 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 (1970).)