

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

IN THE MATTER OF THE CLAIM OF

JACOB LEVINSONS

Under the International Claims Settlement
Act of 1949, as amended

Claim No CU -1514

Decision No. CU-6281

Counsel for claimant:

Salomon & Mainzer
by Robert Salomon, Esq.

FINAL DECISION

The Commission issued its Proposed Decision in this matter on July 28, 1971, certifying a loss to JACOB LEVINSONS in the amount of \$53,925.00 for a one-sixth interest in each of two Cuban entities, Cia. Inmobiliaria Incasing, S.A., and Cuban Intercasing Company, Inc., intervened by the Government of Cuba on September 1, 1960.

The Commission now finds that claimant's interest was in fact one-third of the two Cuban entities, his spouse having no interest therein, and that his loss on September 1, 1960 in fact was \$107,850.00.

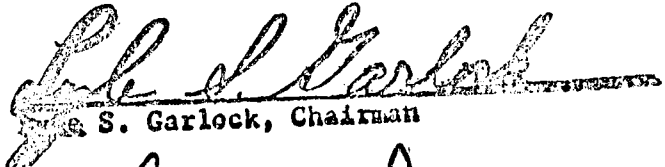
Accordingly, the Certification of Loss in the Proposed Decision is set aside, the following Certification of Loss will be entered, and the remainder of the Proposed Decision as amended herein is affirmed.

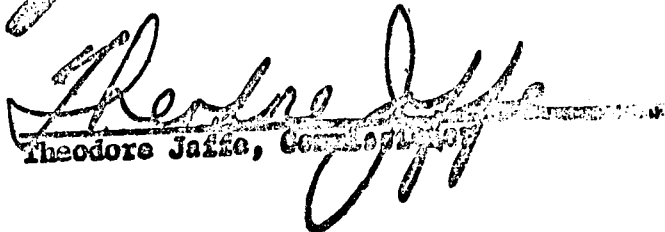
CERTIFICATION OF LOSS

The Commission certifies that JACOB LEVINSONS 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 Seven Thousand Eight Hundred Fifty Dollars (\$107,850.00) with interest thereon at 6% per annum from September 1, 1960 to the date of settlement.

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

SEP 22 1971


S. 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, was presented by JACOB LEVINSONS for \$110,933.00 based upon the asserted ownership and loss of stock interests in two Cuban corporations. Claimant has been a national of the United States since his naturalization in 1954.

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.

Claimant describes his loss as stock interests in Compania Inmobiliaria Incasing, S.A. (Inmobiliaria) and in Cuban Inter casing Company, Inc. (CIC) \$110,933.00.

Based upon the entire record, including a report from abroad, stock certificates, affidavits, a memorandum submitted to the State Department in 1963, and other documents, the Commission finds that claimant owned a 33-1/3% stock interest in each of the corporations.

Pursuant to the Community Property Law of Cuba, his wife, Pauline, had a one-half interest therein. Since the record does not disclose that she was a United States national of the United States at the time of loss, her interest will not be considered here.

Since the two companies were organized under the laws of Cuba, they do not qualify as a corporate "national of the United States" within the meaning of Section 502(1)(B) of the Act, 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 such ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

Based upon the evidence of record including a telegram sent to one of the stockholders on September 1, 1960 advising of the intervention on that date, the Commission finds that the two Cuban companies were intervened by the Government of Cuba on September 1, 1960.

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". 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.

The record shows that CIC was engaged in the manufacture of casings for the sausage trade. Immobiliaria was formed to hold the real property and fixtures used by CIC.

It appears that no balance sheets for the two Cuban companies are available. However, claimant has submitted an affidavit of the former bookkeeper of the two companies in which he reconstructs a consolidated balance sheet of the two companies including their assets, liabilities, capital stock, and combined surplus as of September 1, 1960.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimant is that shown in this balance sheet which reflects the following:

<u>ASSETS - CIC</u>		<u>LIABILITIES - CIC</u>	
Cash (Approx) in Bank	\$ 7,000.00	Belamino Alvarez	\$ 1,600.00
Machinery all plants	76,000.00	(cooperage)	
Autos & Trucks	8,000.00	Caimanero Soler Co.	
Installations)		(salt)	650.00
Salt)		La Provisora	
Barrels)	16,500.00	(hardware)	100.00
Merchandise Inventory	80,000.00	Abundio Blanco	
Advances to Mataderos	9,500.00	(Gas Station)	750.00
<u>Assets - IMMOBILIARIA</u>		Barroso Hermanos	
Land	81,000.00	(mach. repairs)	200.00
Factory-Guanabacoa	28,800.00	Electric Company	
Superintendent House	5,000.00	(monthly)	150.00
Office Building	6,000.00	Juan Napoles Camaguey	
Waste Disposal Plant	7,000.00	(Merchandise)	400.00
28000 gallon cement		Alvarez Hnos.	
water tank & Equip.	8,000.00	(Merch. Ciego de Avila)	200.00
Four water wells	7,500.00	Sorro	
Oil well yielding 400		(Merch. Santiago de	
gallons weekly	5,000.00	Cuba)	<u>200.00</u>
Steam generating plant	7,500.00		\$ 4,250.00
TOTAL ASSETS	<u>\$352,800.00</u>	Banco de Construcccion	
		(loan)	20,000.00
		Banco de Construcccion	
		(Acceptance)	5,000.00
		Capital Stock-CIC	36,000.00
		Capital Stock-Immob.	48,000.00
		Surplus	<u>239,550.00</u>
		Total Liabilities &	
		Capital	\$352,800.00

This balance sheet indicates that the net worth of Immobiliaria and Inter casing on the date of loss was \$323,550.00.

Accordingly, the Commission finds that claimant suffered a loss in the amount of \$53,925.00, the value of his 16-2/3% stock interest in these companies.

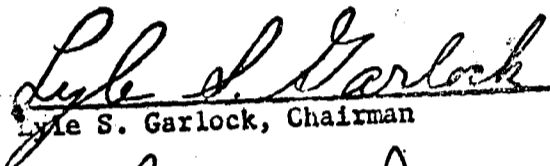
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

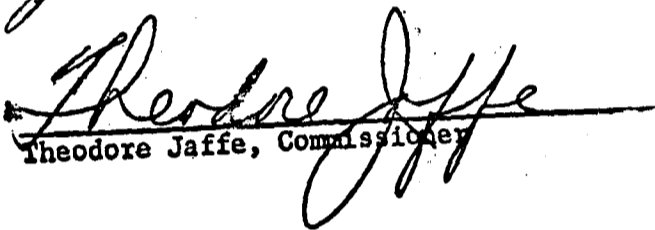
CERTIFICATION OF LOSS

The Commission certifies that JACOB LEVINSONS 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 Fifty-Three Thousand Nine Hundred Twenty-Five Dollars (\$53,925.00) with interest at 6% per annum from September 1, 1960 to the date of settlement.

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

JUL 28 1971


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 for 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).)

CU-1514