

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

IN THE MATTER OF THE CLAIM OF

HENRY ENGELHART

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1701

Decision No. CU -335

AMENDED PROPOSED DECISION

By Proposed Decision dated September 20, 1967, the Commission denied this claim for the reason that claimant had not established his ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Claimant objected to the Proposed Decision and submitted additional evidence in support of his claim. Upon consideration of the new evidence, it is

ORDERED that the Proposed Decision be amended to read as follows:

On the basis of evidence of record, the Commission now finds that claimant is, and since prior to October 13, 1960, has been, the owner of 7,000 shares of common stock of Havana Lithographing. The certificates representing the shares in question are Nos. CLHC 17858 and CLHC 17859 representing 200 shares, and ownership of the remainder is established by the affidavit of claimant's broker, who is holding the shares in claimant's name, and copies of the purchase slips.

The record discloses that Compania Litografica de la Habana, S.A. was nationalized by Law 890, published in the Cuban Official Gazette on October 13, 1960. This corporation was organized under the laws of Cuba and 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. Therefore, claimant is entitled to file under this claim based upon his ownership interest therein. (See Claim of Central West Company, Claim No. CU-3440.)

In determining the value of the interest owned by claimant in Havana Lithographing, the Commission has considered an unaudited balance sheet, with supporting schedules, as of July 31, 1960, an affidavit of the former President of Havana Lithographing, appraisals and valuations of the assets of the corporation prepared in 1960 and 1967, and insurance values for all assets. On the basis of all the evidence of record, the Commission finds that \$1,356,012.12 is the amount that would have been available at the time of loss for distribution among the 540,218 shares of common stock issued by Havana Lithographing. The Commission thus concludes that the dollar loss sustained in connection with the ownership of a common stock interest in Havana Lithographing was \$2.51 per share of common stock issued and held at the time of loss.

Accordingly, in the instant claim, the Commission finds that claimant, as holder of 7,000 shares of the common stock of Havana Lithographing, suffered a loss in the amount of \$17,570.00 within the meaning of Title V of the Act, as a result of the nationalization of Havana Lithographing by the Government of Cuba on October 13, 1960.

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.)

Accordingly, the Commission concludes that the amount of loss sustained by the claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that HENRY ENGELHART 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 Seventeen Thousand Five Hundred Seventy Dollars (\$17,570.00) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

MAY 29 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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 Amended 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).)

NOTICE TO TREASURY DEPARTMENT: The above listed certificates and/or bonds may have been returned to claimant and no payment should be made until they are resubmitted.

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

IN THE MATTER OF THE CLAIM OF

HENRY ENGELHART

Claim No. CU-1701

Decision No. CU

335

Under the International Claims Settlement
Act of 1949, as amended

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 \$40,000.00, was presented by HENRY ENGELHART and is based upon the asserted loss of a stockholder interest in the Havana Lithographing Company in Cuba. Claimant, HENRY ENGELHART, has been a national of the United States since his naturalization on February 6, 1928.

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.

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) (Supp. 1967).)

The claim is based upon a stockholder interest in the Havana Lithographing Company in Cuba. No evidence was submitted in support of the claim.

By Commission letter of June 28, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. In reply, claimant submitted a statement of security account dated May 25, 1967, by Hirsch & Co. indicating that as of such date 6,800 shares of Havana Lithographing Company were on deposit in claimant's favor.

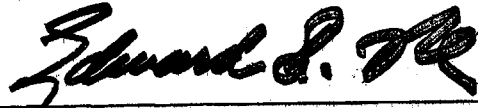
Inasmuch as the submitted statement of security account of May 25, 1967 did not furnish the information suggested in the Commission's letter of June 28, 1967, it was again suggested to claimant by letter of July 5, 1967, that he submit the original stock certificates of the Havana Lithographing Company, with evidence indicating the date or dates when such stock was purchased by him and the amount of consideration paid. Additionally, claimant was informed that if the suggested documentation were

not submitted within thirty days from the date of such letter, it might become necessary for the Commission to make a determination based upon the record then available. No evidence has since been submitted.

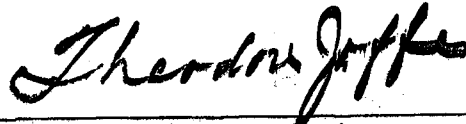
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, appropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

SEP 20 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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).)