

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

IN THE MATTER OF THE CLAIM OF

FLORENCE C. MCCARTHY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3190

Decision No. CU

1471

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 FLORENCE C. MCCARTHY, and is based upon the asserted loss of an unspecified amount, sustained in connection with the ownership of a stock interest in Compania Litografica de la Habana, S.A. (Havana Lithographing), hereinafter referred to as Havana Lithographing. Claimant has been a national of the United States since her naturalization on April 17, 1935.

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.

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 10 shares of 6% Cumulative Convertible Preferred Stock of Havana Lithographing having a par value of \$25.00 per share. The certificate representing the shares in question is No. PHL 0276.

On October 13, 1960, the Government of Cuba published Law 890 in its Official Gazette, which listed as nationalized Compania Litografica de la Habana, S.A. Accordingly, the Commission finds that Havana Lithographing was nationalized by the Government of Cuba on October 13, 1960, and that claimant's interest in the enterprise was taken on that date.

The value of the interest owned by claimant in Havana Lithographing is governed by Section B of Article Seven and Section C of Article Eight of the By-Laws of the corporation pertaining to the distribution of corporate assets resulting from winding-up operations.

Section B ("Preference as to Assets") of Article Seven ("Preferred Stock") provides that:

the holders of shares of Preferred Stock then outstanding shall be entitled to be paid twenty-five pesos (\$25.00), legal tender, per share, plus accrued dividends thereon to the date of payment. . . . These payments to the holders of shares of Preferred Stock must be made before payment is made to the holders of Common Stock.

Accordingly, the holders of the preferred shares outstanding at the time of loss, of which there are 22,373.84 shares, would be entitled to \$25.00 per share plus any dividends accrued to October 13, 1960, the date on

which Havana Lithographing was nationalized. Information available to the Commission discloses that three quarterly payments of \$0.375 each were made on January 15, April 15 and July 15, 1960 to the holders of the Preferred Stock, and that the only dividends on the Preferred Stock accrued and unpaid as of October 13, 1960 totalled \$8,390.00. This amount represented the dividends payable October 15, 1960 at \$0.375 per share.

The Commission therefore finds that the dollar loss sustained in connection with ownership of Preferred Stock of the Havana Lithographing is \$25,375 per share. (See the Claim of Central West Company, FCSC Claim No. CU-3440.)

Accordingly, in the instant claim, the Commission finds that claimant as holder of 10 shares of the 6% Cumulative Convertible Preferred Stock of Havana Lithographing, suffered a loss in the amount of \$253.75 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 the Claim of Lisle Corporation, FCSC 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 FLORENCE C. MCCARTHY 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 Two Hundred Fifty-Three Dollars and Seventy-Five Cents (\$253.75) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

APR 10 1968

Edward v. B. Sutton

Edward v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner
CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the Final
decision on MAY 17 1968

Francis Thastum

Clerk of the Commission

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.

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).)