

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

IN THE MATTER OF THE CLAIM OF

GERALD KNAUER, ADMINISTRATOR
OF THE ESTATE OF
WILLIAM LIEBOW, DECEASED

Claim No. CU-3271

Decision No. CU -6139

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on March 29, 1971.
Hearing on the record.

Hearing on the record held on **AUG 18 1971**

FINAL DECISION

Under date of March 29, 1971, the Commission issued its Proposed Decision denying this claim for lack of proof because the evidence failed to establish that: (1) the deceased owned a stock interest in Hoteles Internacional, S.A., a Cuban corporation; (2) the claim for the loss of that stock interest, which arose on October 24, 1960, was owned by nationals of the United States continuously from the date of loss to the date of filing with the Commission; and (3) that the stock interest had the asserted value of \$1.5 million.

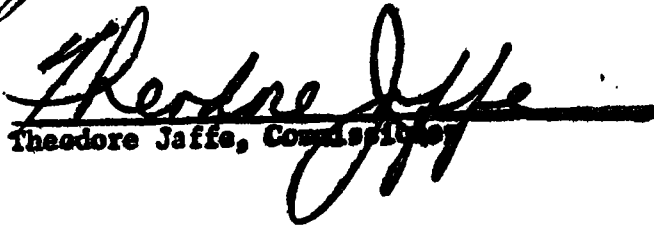
The Administrator of the estate of the deceased objected to the Proposed Decision and submitted an affidavit dated May 18, 1971, in support thereof. The affiant, formerly the Cuban attorney of the deceased and President of the Cuban corporation, recites that the deceased owned an 87-1/2% stock interest in the Cuban corporation, having a value of at least \$875,000.00; and that GERALD KNAUER, the Administrator, and Murray Knauer each inherited a 1/4 interest from the deceased. However, no evidence has been submitted to establish that either of these two heirs was a United States national at all pertinent times. The identity of the other heirs who inherited the remaining 1/2 interest in the estate of the deceased is not mentioned either by the said affiant or the Administrator.

Upon consideration of the entire record, the Commission finds no valid basis for altering the decision previously entered. Accordingly, the Proposed Decision of March 29, 1971 is affirmed.

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

AUG 28 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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Act of 1949, as amended**

Claim No. CU-3271

Decision No. CU 6139

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 \$1,500,000.00, was presented by GERALD KNAUER, ADMINISTRATOR OF THE ESTATE OF WILLIAM LIEBOW, DECEASED, based upon the asserted loss of a stock interest in a Cuban corporation. Claimant states that all heirs of the deceased, who died in 1957, have been nationals of the United States at all pertinent times.

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.

In his official claim form, claimant states that the deceased owned 3,500 shares of stock in Hoteles Internacional, S.A., a Cuban corporation, representing a 35% stock interest. He further stated that the Cuban corporation owned a hotel situated on 16 acres at Varadero Beach, Matanzas Province, Cuba; that the property had a value of about \$4 million, which was encumbered; and that the amount of the outstanding obligation was unknown to claimant.

A report from abroad indicates the following: The Cuban corporation was organized in Cuba on January 14, 1949. The deceased was one of the organizers, but his stock interest is not shown in that report. The corporation owned a four-story building situated on 14,728.04 square meters of land at Varadero, Matanzas Province, Cuba. The building had 46 rooms and the property was valued at \$2,000,000.00. The property was encumbered by a mortgage of \$1 million, of which \$250,000.00 has been paid. The authorized capital stock of the corporation was \$2.5 million, of which 400 shares with a par value of \$100.00 a share were subscribed. The Cuban corporation was nationalized by the Government of Cuba by Resolution No. 3 of October 24, 1960.

Inasmuch as it was stated that all of the deceased's shares of stock had been left in Cuba, the Commission suggested the submission of other appropriate evidence, including affidavits based on personal knowledge, to support the assertion concerning the deceased's stock interest in the Cuban corporation. It was also suggested that balance sheets and other financial information be submitted to support the assertion that the deceased's 35% stock interest in the Cuban corporation had a value of \$1.5 million.

Claimant submitted a copy of a balance sheet for the Cuban corporation as of April 30, 1957. The Commission thereupon suggested the submission of more recent financial information so that the value of the Cuban corporation on October 24, 1960, the date of loss, could be determined. In response, claimant submitted copies of the profit and loss statement and supporting schedules for the Cuban corporation covering the period September 1, 1956 to April 30, 1957. It was stated that no other financial information was available, and that the accountant who had prepared the financial statements was deceased.

Moreover, the record was somewhat confused concerning the heirs of the deceased. A letter of October 25, 1967 from the former counsel for claimant listed the following persons as the heirs of the deceased: claimant and Murray Knauer, nephews; Rose Cohen and Estelle Knauer, sisters; and Zelda Friedman, niece. When the Commission requested proof of the United States nationality of all the heirs, counsel's response of March 5, 1970 was that under the laws of Florida, the domiciliary of the deceased, his only heirs were his surviving sisters. Subsequently, the Commission was informed that Rose Cohen had died in January 1969 and that her sole heir was her daughter, Zelda Friedman.

Claimant responded to Commission requests for a full explanation by letter of October 6, 1970. Therein claimant states that the deceased left a Cuban will, and that he and Murray Knauer each own a 1/4 interest in the estate of the deceased. Since a copy of the Letters of Administration pursuant to which claimant was appointed Administrator recite that the deceased died intestate, the record was not clarified. The record does not establish the identity of the heirs of the deceased and the precise interests each inherited.

However, as already noted, claimant originally stated that the deceased owned a 35% stock interest in the Cuban corporation. In preparing his request for a report from abroad, claimant stated that the deceased's

stock interest was 50%. Accordingly, the Commission suggested the submission of evidence to establish the extent of the deceased's stock interest in the Cuban corporation. Claimant's letter of October 6, 1970 recites, as follows:

There seems to be some confusion as to the information previously submitted. Mr. William Liebow left a Cuban will which was limited to his interest in the Cuban corporation, namely Hotels International, S.A. This interest amounted to 87-1/2% of the stock. Gerald Knauer and Murray Knauer have 1/4 interest each in this Cuban estate.

The Commission repeated its suggestions for information and evidence that would clarify these matters. Claimant indicated in his reply that the person who may have such information is in Cuba. The Commission finds the evidence insufficient to establish the extent of the deceased's stock interest in the Cuban corporation.

Claimant asserted that the deceased's stock interest in the Cuban corporation had a value of \$1.5 million. The Commission noted that the balance sheet for the Cuban corporation as of April 30, 1957 shows a net worth of \$911,054.39, which represents the value of 10,000 shares of outstanding capital stock. It was therefore suggested that appropriate evidence be submitted to support the asserted valuation. In his letter of October 6, 1970, claimant stated that the hotel had a value of \$3 million and that the "net residue" would have been \$1.5 million. However, he has submitted no evidence in support of his statements.

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. §531.5(d) (1970).)

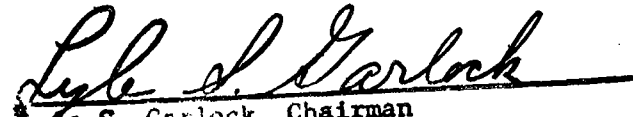
The Commission finds that claimant has failed to sustain the burden of proof with respect to this claim. The evidence does not establish the extent of the deceased's stock interest in the Cuban corporation. Nor does the record establish that the deceased's asserted stock interest had a value of \$1.5 million, as asserted. Further, the record is still unclear, as noted

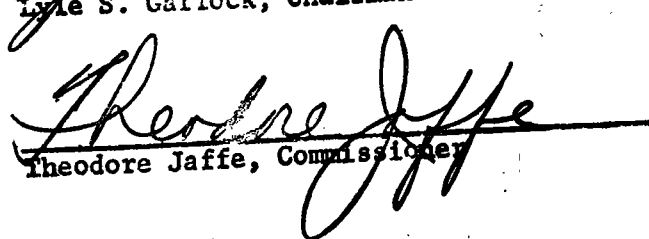
above, as to the identity of the deceased's heirs who inherited his asserted stock interest in the Cuban corporation upon his death in 1957, and as to the extent of their interests in the estate.

For all of the foregoing reasons, this claim is denied in its entirety. 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

MAR 29 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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, (1970).)