

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

IN THE MATTER OF THE CLAIM OF

HOWARD H. HEIMAN
GERSONA HEIMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3321

Decision No. CU

6008

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 HOWARD H. HEIMAN for \$125,000.00 based upon the asserted ownership and loss of certain stock interests and other 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. 1112 (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 record discloses that GERSONA HEIMAN, the wife of HOWARD H. HEIMAN, has been a national of the United States since birth. Pursuant to the community property law of Cuba, she had an interest in property acquired by her husband in Cuba subsequent to their marriage. Accordingly, GERSONA HEIMAN is joined as claimant in this matter.

This claim is based on the following losses:

750 shares of Consolidated Textile Mills, Inc.	\$ 75,000.00
150 shares of Tiendas Delta, S.A.	15,000.00
Other personal property	<u>35,000.00</u>
Total	\$125,000.00

Consolidated Textile Mills, Inc. (Consolidated)
and Tiendas Delta, S.A. (Tiendas)

The record establishes and the Commission finds that claimant HOWARD H. HEIMAN owned 750 shares of stock in Consolidated and 150 shares of stock in Tiendas, both being Cuban corporations.

In our decisions entitled the Claim of Thomas S. Rosenberg (Claim No. CU-2772) and Claim of James S. Knopke, et al. (Claim No. CU-2390) which we incorporate herein by reference, we held that the properties owned by the Companies were nationalized or otherwise taken by the Government of Cuba on October 24, 1960 and December 5, 1962, respectively, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of Consolidated as \$82.1599 and of one-third of Tiendas as \$14.000.

Accordingly, the Commission finds that the value of claimants' 750 shares of stock of Consolidated was \$61,619.93 and 150 shares of stock of Tiendas was \$14,000.00, and concludes that claimants suffered an aggregate loss of \$75,619.93 within the meaning of Title V of the Act.

Personal Property

Claimants have submitted a detailed list of the personal property left in Havana, Cuba, including household furnishings, appliances, jewelry, clothing, cash in a bank, a 1959 Chevrolet Biscayne and a 1958 Oldsmobile Super 88. The list includes the dates and places of purchase, apparently the approximate purchase price, and in most cases the condition on acquisition.

Based upon the entire record, the Commission finds that claimants owned certain household furnishings and other personal property, subject of this claim.

On December 6, 1961, the Cuban Government published its Law 989 which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject personal property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The record includes in support of the claimed values, the aforementioned detailed list and a copy of claimant's amended 1960-1962 income tax return. Based on the evidence of record, the Commission finds that at the time of loss the items of personalty on this list, with the exception of a bank account, jewelry, and objects of art and paintings, had an aggregate value after appropriate depreciation of \$31,736.00.

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).)

With regard to the excepted items on this list, the Commission finds that there is insufficient evidence to support this portion of the claim. Accordingly this portion of the claim is denied for failure of proof.

Claimants' losses within the scope of Title V are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Consolidated	October 24, 1960	\$ 61,619.93
Tiendas	December 5, 1962	14,000.00
Household furnishings, etc.	December 6, 1961	<u>31,736.00</u>
		\$107,355.93

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 as follows:

<u>FROM</u>	<u>ON</u>
October 24, 1960	\$ 61,619.93
December 6, 1961	31,736.00
December 5, 1962	<u>14,000.00</u>
	\$107,355.93

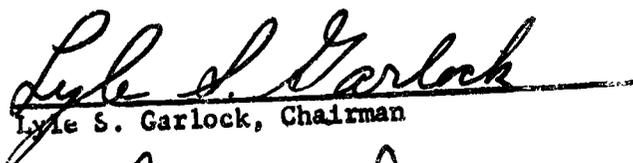
CERTIFICATIONS OF LOSS

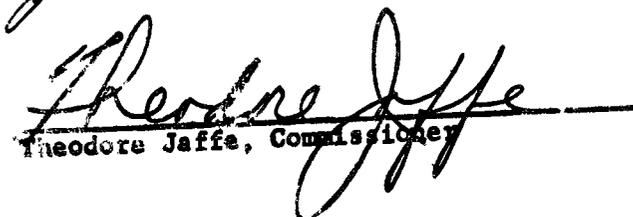
The Commission certifies that HOWARD H. HEIMAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-three Thousand Six Hundred Seventy-seven Dollars and Ninety-seven Cents (\$53,677.97) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that GERSONA HEIMAN 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 Six Hundred Seventy-seven Dollars and Ninety-six Cents (\$53,677.96) with interest 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

JAN 6 1971


Lyle S. Garlock, Chairman


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 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).)