

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

IN THE MATTER OF THE CLAIM OF

JOHN H. BLATZ
OLIVE M. BLATZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3362

Decision No. CU 2093

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 JOHN H. BLATZ and OLIVE M. BLATZ, and is based upon the asserted loss of \$734.00, sustained in connection with the ownership of a stock interest in Compania Litografica de la Habana, S. A. (Havana Lithographing Company), hereinafter referred to as Havana Lithographing. Claimants have been nationals of the United States since their respective births in the United States.

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.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

On the basis of evidence of record, the Commission finds that claimants are, and since prior to October 13, 1960, have been, the owners of 200 shares of common stock of Havana Lithographing, represented by Nos. CLHC24196 and 24197. Additionally, the Commission finds that claimants are also the owners of 600 shares of common stock of Havana Lithographing which they purchased on December 1, 1961 for a consideration of \$318.00.

The record discloses that the Havana Lithographing Company (Compania Litografica de la Habana, S. A.) was nationalized by Cuban 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. In this type of situation, it has been held previously that a stockholder in such a corporation is entitled to file a claim based upon

his ownership interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180).

In determining the value of the interest owned by claimants 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 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. (See Claim of Central West Company, Claim No. CU-3440).

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that a claim for loss has been owned continuously by a national or nationals of the United States from the date of loss to the date of filing with the Commission. In this instance the loss occurred on October 13, 1960 and claimants did not acquire 600 shares of the subject stock until December 1, 1961. Claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss and to establish continuous United States ownership of the securities until the date on which they purchased them.

Evidence of record before the Commission discloses that the subject securities were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the subject securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which they were purchased by the claimants, and, in the absence of evidence to the contrary, has concluded that such an inference is justified. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571).

Accordingly, in the instant claim, the Commission finds that claimants, as the holders of 200 shares of the common stock of Havana Lithographing, suffered a loss in the amount of \$502.00 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. Further, the Commission finds that the claimants, upon their purchase of 600 shares of the subject stock in 1961, succeeded to the loss sustained by the assignor of the subject stock, and concludes that they succeeded to and suffered an additional loss of \$318.00 (the price they paid) as a result of the nationalization of Havana Lithographing on October 13, 1960.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimants as the extent thereof.

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) or from the date of acquisition of the claim, if purchased after the date of loss, to the date of settlement (See Claim of Samuel J. Wikler and Frances H. Wikler as Executors of the Estate of Julius S. Wikler, Deceased, supra).

Accordingly, the Commission concludes that the amount of loss sustained by the claimants shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss as to \$502.00 and from December 1, 1961, the date on which claimants acquired this claim, as to \$318.00, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that JOHN H. BLATZ and OLIVE M. BLATZ jointly 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 Five Hundred Two Dollars (\$502.00) with interest at 6% per annum from October 13, 1960 to the date of settlement; and

the Commission further certifies that JOHN H. BLATZ and OLIVE M. BLATZ jointly succeeded to and 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 Three Hundred Eighteen Dollars (\$318.00) with interest thereon at 6% per annum from December 1, 1961 to the date of settlement.

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

JUL 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)

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 or the loss here certified.