

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

IN THE MATTER OF THE CLAIM OF

JACOB E. POBUDA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0010

Decision No. CU 6148

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 JACOB E. POBUDA, based upon losses sustained in connection with certain bond and stock interests. Claimant has been a national of the United States since birth. The claim is for \$1,602.81.

The claim is based on the following:

3% Income Debentures issued by the Consolidated Railroads of Cuba in the face amount of \$25,000.00
10 shares of Consolidated Railroads of Cuba preferred stock
30 shares of The Cuba Railroad Company preferred stock
Series A, First Lien and Refunding Bonds issued by The Cuba Railroad Company in the face amount of \$3,000.00
First Mortgage 5 1/2 percent bonds issued by Cuba Northern Railways Company in the face amount of \$3,000.00
Income Debentures issued by the Vicana Sugar Company in the face amount of \$5,000.00
800 shares of Vicana Sugar Company common stock
100 shares of Havana Lithographing Company common stock
Securities issued by the Havana Electric Railway

In the following decisions, incorporated herein by reference, we found the properties of the several railroads taken by the Government of Cuba on October 13, 1960, the properties of the Vicana Sugar Company taken on November 12, 1959, and the properties of the Havana Lithographing Company taken on October 13, 1960; that this type of claim is compensable to an American national under the facts and conditions set forth therein; and

further, we need not again detail the reasons or method used in determining the values per unit as shown:

Claim of Edward R. Smith (Claim No. CU-5001) - Value of a \$5,000 3% Cumulative Income Debenture issued by the Consolidated Railroads of Cuba as \$5,945.40 including interest to October 13, 1960

Claim of Cora W. Welsh (Claim No. CU-2503) - \$272.00 per share of 6% Cumulative Preferred Stock of Consolidated Railroads of Cuba

Claim of Irwin Nack et al. (Claim No. CU-1960) - \$100 per preferred share of The Cuba Railroad Company

Claim of Albert I. Harris (Claim No. CU-2398) - Value per \$1,000 Series A First Lien and Refunding Bond issued by the Cuba Railroad Company of \$682.56 including interest to October 13, 1960

Claim of Kentucky Home Mutual Life Insurance Company (Claim No. CU-1339) - Value per \$1,000 First Mortgage Gold Bond, 5 1/2 percent, of \$682.56 including interest to October 13, 1960 issued by Cuba Northern Railways

Claim of Rose Lerner (Claim No. CU-3413) - \$1.00 per share of Vicana Sugar Company common stock

On the basis of evidence of record in the instant claim, the Commission finds that claimant owned since prior to November 12, 1959 and October 13, 1960, the securities listed below and suffered the losses shown below:

\$5,000 3% Income Debenture of Consolidated Railroads	\$ 5,945.40
10 shares of Consolidated Railroads preferred	2,720.00
30 shares of Cuba Railroad preferred	3,000.00
\$3,000 Series A First Lien and Refunding Bonds of Cuba Railroad Company	2,047.68
\$3,000 First Mortgage 5 1/2 percent Gold Bonds of Cuba Northern Railways	2,047.68
200 shares of Vicana Sugar Company	<u>200.00</u>
	\$15,960.76

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 also finds that claimant acquired additional securities at the purchase prices and on the dates following:

<u>Item</u>	<u>Purchase Date</u>	<u>Price</u>
Consolidated Railroads of Cuba 3% Income Debentures in the face amount of \$20,000.00		
\$10,000 on	January 11, 1966	\$100.00
\$10,000 on	January 31, 1966	100.00
Vicana Sugar Company stock		
300 shares	January 20, 1960	118.50
300 shares	February 1, 1960	118.50
Vicana Sugar Company Income Debentures in the face amount of \$5,000.00	April 15, 1963	137.50
Havana Lithographing Company common stock - 100 shares	July 13, 1962	<u>34.00</u>
		\$608.50

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. These losses occurred on November 12, 1959 and October 13, 1960. In similar cases, 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 claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim 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 claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

The Commission finds that claimant, as an assignee by purchase, acquired the claim for the losses sustained by the assignors of the claimed securities, but under the limitations provided in Section 507 of the Act (supra), is limited to \$608.50, the actual consideration paid for the additional securities.

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.)

The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from November 12, 1959 on \$200.00, from October 13, 1960 on \$15,760.76; but as to the later purchased securities, from the date claimant acquired the assigned claims as, from January 20, 1960 on \$118.50; from February 1, 1960 on \$118.50; from July 13, 1962 on \$34.00; from April 15, 1963 on \$137.50; from January 11, 1966 on \$100.00; and from January 31, 1966 on \$100.00.

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

Claimant has asserted a claim for the loss of an ownership interest in Havana Electric Company. It appears from the record that this company

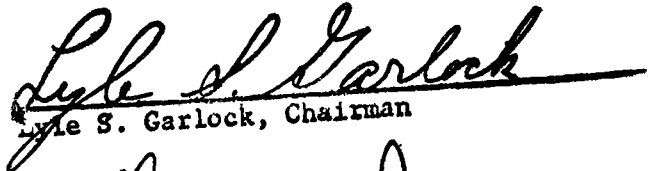
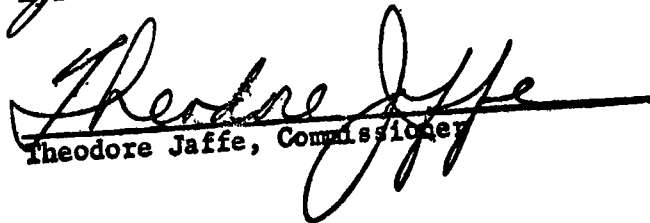
which was organized under the laws of Maine ceased doing business in Havana in 1953. Accordingly any claim based upon an interest in this company must be and is hereby denied.

CERTIFICATION OF LOSS

The Commission certifies that JACOB E. POBUDA 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 Sixteen Thousand Five Hundred Sixty-Nine Dollars and Twenty-Six Cents (\$16,569.26) with interest thereon 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

APR 7 1971


Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

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.

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).)