

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

IN THE MATTER OF THE CLAIM OF

JONAS COLLIER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0315

Decision No. CU

3688

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 JONAS COLLIER for \$4,857.50 based upon asserted losses in connection with participation interests in Cuban Venezuelan Oil Voting Trust, Consolidated Cuban Petroleum Corporation and Havana Racing Company, Inc. Claimant has been a national of the United States since birth.

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 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

In our decision entitled the Claim of Felix Heyman (Claim No. CU-0412 which we incorporate herein by reference), we held that the properties owned or controlled by the Trust were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, 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 unit of \$0.11971.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Heyman decision; that he was an American national at the requisite times; that he has been the owner of 2,500 units of participation in the Cuban Venezuelan Oil Voting Trust since prior to November 23, 1959; and that he suffered a loss in the amount of \$299.28 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from November 23, 1959, the date of loss, to the date on which provisions are made for the settlement thereof.

(See Heyman, supra.)

Evidence of record before the Commission includes documentation submitted to the State Department by the Consolidated Development Corporation which reflects that Consolidated Cuban Petroleum Corporation was incorporated under the laws of the State of Delaware on

June 4, 1956 and that on June 23, 1959, the corporate name was changed to Consolidated Development Corporation. The President of the Consolidated Development Corporation has informed the Commission that over 50 per centum of the capital stock of said corporation is owned by United States citizens, which qualifies it as a United States national within the purview of Section 502(1)(B) of the Act. Accordingly, the Commission is precluded from considering so much of the claim as is based on an interest in Consolidated Development Corporation, which qualifies as a United States national, and this part of the claim is denied. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FGSC Semiann. Rep. July-Dec. 1966.)

With respect to the Havana Racing Company, Inc., the Commission has no information as to whether over 50 per centum of the capital stock thereof is owned by United States nationals. No claim was filed with the Commission by this Company. Information available to the Commission in this and several similar claims reflects that Western Nebraska Oil & Uranium Co. changed its name to Havana Racing Company, Inc., in about 1957, acquiring all of the outstanding stock of Cuban Racing Company, Inc., a Cuban corporation, which assertedly had contracted to lease and purchase Oriental Park in Havana. Havana Racing Company, Inc., moved its Transfer Office to Oriental Park, Marianao, Havana, Cuba.

It appears, however, from information in a related State Department file, that the Havana Racing Company was only the sub-lessee of part of the land of the Hippodrome National, but was not the proprietor nor the owner of such properties. Accordingly, even if the Company had filed claim, in the absence of probative evidence, the Commission could not readily find a loss attributable to actions of the Cuban Government, nor the extent thereof.

In the absence of evidence that Havana Racing Company, Inc., is not qualified as a national of the United States, this part of the claim is denied.

CERTIFICATION OF LOSS

The Commission certifies that JONAS COLLIER 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 Ninety-nine Dollars and Twenty-eight Cents (\$ 299.28) with interest at 6% per annum from November 23, 1959 date of settlement.

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

JUN 18 1969

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

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