

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

IN THE MATTER OF THE CLAIM OF

ANGEL PAGLIUCA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0632

Decision No. CU - 5879

Counsel for claimant:

Gino Negretti, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$6,660,130.01, was presented by ANGEL PAGLIUCA based upon the asserted loss of certain personal property in Cuba. Claimant has been a national of the United States since February 4, 1957.

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.

Claimant asserts the following losses:

Personal belongings	\$ 84,261.60	
6% interest from March 1961 to October 1961	<u>3,372.46</u>	\$ 87,634.06
Debt of Cuban Government (Commissions and expenses)	\$ 567,550.00	
6% interest from December 1958 to August 1961	<u>93,645.75</u>	661,195.75
Constructora Guanahani, S.A. Stock interest, construc- tion materials and equipment	\$ 612,086.50	
6% interest from January 1959 to August 1962	<u>136,659.03</u>	748,745.53
Stock interest in Berlanti Construction Co., S.A.	\$ 7,500.00	
.375 equity in Berlanti- Delaware's estimated profits on contract	825,000.00	
Construction equipment	<u>1,953,996.60</u>	
	<u>2,786,496.60</u>	
6% interest for 1959, 1960 and 1961	<u>361,719.38</u>	3,148,215.98
Stock interest in Copetrol Oil Refining Co., S.A.	\$1,100,000.00	
Loan	<u>230,292.26</u>	
	<u>1,330,292.26</u>	
6% interest from January 1959 to August 1961	<u>212,846.86</u>	1,543,139.12
Fomento Excelsior Inter- nacional, S.A. Assets	\$ 432,292.85	
6% interest from March 1960 to August 1961	<u>38,906.72</u>	<u>471,199.57</u>
Total		<u>\$6,660,130.01</u>

It is noted at the outset that claim is being made for interest with respect to each item of property herein. Claimant has computed interest for specific periods of time. As indicated hereafter, interest is being allowed at 6% per annum from the respective dates of loss of certifiable items to the date of settlement.

Personal Belongings

Based upon the evidence of record, including affidavits and invoices covering some of the items of jewelry, the Commission finds that claimant owned certain items of furniture, furnishings and other personal belongings maintained at his rented apartment at 58-O Street, Havana, Cuba. Affidavits from individuals having personal knowledge of the facts indicate that on March 10, 1961 Cuban officials took said personal property. Accordingly, the Commission finds that claimant's furniture, furnishings and other personal belongings were taken by the Government of Cuba on March 10, 1961.

Claimant asserts that the personal property in his Havana apartment had a value of \$84,261.60. He relies on an itemized list of said property which he states in his letter of March 9, 1970 was prepared by former Cuban officials and others. The Commission had suggested the submission of evidence to show the approximate dates of acquisition of each item of property and the approximate costs thereof. However, no such evidence has been filed.

The Commission notes from claimant's letter of March 9, 1970 that his first trip to Cuba was in March 1947 and that he left Cuba on December 17, 1959. An examination of the list of personal property indicates that many of the items are subject to depreciation at the rate of 5% per year, and that clothing in the amount of \$3,500.00 is subject to depreciation at the rate of 20% per year. Other items, however, such as silver, oil paintings, jewelry, cash, liquors and food generally are not subject to depreciation. The items subject to depreciation aggregate \$46,930.00, and the other items aggregate \$37,331.60.

On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that the first said group of items should be depreciated by 50%. The Commission therefore finds that the value of such items of property on March 10, 1961, the date of loss, was \$23,465.00. Accordingly, the aggregate value of claimant's personal belongings on the date of loss was \$60,796.60.

Debt of Cuban Government

Claimant asserts a loss of \$567,550.00 for expenses incurred and commissions due from the Government of Cuba on account of a certain housing contract with Cuba, representing \$67,550.00 for expenses and \$500,000.00 for commissions. This portion of the claim is closely related to and actually forms part of the claim for a stock interest in Berlanti Construction Co., S.A. and in Berlanti Construction Co., Inc. of Delaware. Accordingly, this portion of the claim will be discussed below in conjunction with the related part hereof.

Constructora Guanahani, S.A.

Based upon the evidence of record, including stock certificates and affidavits, the Commission finds that claimant owned a 100% stock interest in Constructora Guanahani, S.A. (Guanahani), a Cuban corporation.

Since Guanahani was organized under the laws of Cuba, it 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 that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

It appears from the record and the related Claim of Berlanti Construction Company, Inc. (Berlanti of Delaware), Claim No. CU-0871, in which claimant owned a stock interest, that Guanahani was authorized by contract dated November 21, 1958 with Berlanti of Delaware to construct a certain housing development in Cuba as subcontractor. This matter is discussed in detail below under another portion of this claim. In connection with that subcontract, Guanahani purchased certain materials and equipment and commenced construction early in December 1958. The evidence in Claim No. CU-0871 shows that Cuban officials halted all construction on January 27, 1959. Claimant

states that Guanahani's assets were taken by Cuba at the same time. On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that Guanahani's assets were taken by the Government of Cuba on January 27, 1959.

Claimant asserts the loss of \$612,086.50 for materials and equipment at the site where construction was in progress. The Commission suggested the submission of balance sheets and other appropriate documentary evidence to establish the nature and value of Guanahani's assets and its liabilities so that its net worth could be determined. Claimant's response of March 9, 1970 was that all such records had remained in Cuba and were unavailable.

The record, however, contains the following pertinent evidence:

(a) A copy of an inventory made on December 30, 1958 of Guanahani's material and equipment at the construction site, aggregating \$612,086.50.

(b) A copy of an affidavit, dated November 28, 1966, indicating that Guanahani owned office furniture having a value of \$5,646.50.

(c) A copy of a letter, dated January 19, 1959, from the President of Guanahani to Berlanti of Delaware, indicating that Guanahani had commenced construction of the housing development, and that as of that date the value of the construction partially completed aggregated \$256,000.00.

(d) Affidavits from suppliers of material indicating that they had delivered to the construction site property aggregating \$410,873.00 with respect to which \$216,723.00 was still due one of the suppliers and \$194,150.00 was due another supplier.

(e) A copy of a statement, dated January 2, 1959, from claimant's account, stating that upon examination of claimant's books and records in Cuba, claimant's assets and liabilities as of December 30, 1958 were as follows, the Cuban peso being on a par with the United States dollar:

ASSETS

Bank account	\$ 1,246.96
Cash with private depository	210,237.00
Accounts receivable	276,500.00
Copetrol Oil Refining Co., S.A. Receivable	230,292.26
Copetrol Oil Refining Co., S.A. Shares of stock	1,100,000.00
Berlanti Construction Co., S.A. Shares of stock	1,953,996.00
Personal property in Havana residence	84,311.60
Constructora Guanahani, S.A. Shares of stock	1,317,086.50
Fomento Excelsior Internacional, S.A. Shares of stock	250,050.00
Commissions receivable	<u>500,000.00</u>
Total Assets	<u>\$5,923,720.32</u>

LIABILITIES AND CAPITAL

Fomento Excelsior Internacional, S.A.	\$ 20,010.00
Copetrol Oil Refining Co., S.A.	25,000.00
Berlanti Construction Co., S.A.	1,450,000.00
Constructora Guanahani, S.A.	711,216.00
Various creditors	380,256.00
Commissions payable	355,000.00
Reserve for taxes	186,000.00
Other reserves	70,000.00
Interest payable on loans	32,350.00
Angel Pagliuca, capital account	<u>2,693,888.32</u>
Total Liabilities and Capital	<u>\$5,923,720.32</u>

Since all of the pertinent books and records relating to claimant's Cuban operations were left in Cuba, the foregoing statement of assets and liabilities cannot be considered conclusive on the issue of valuation. Moreover, the record fails to establish that Guanahani owned assets other than those at the construction site. Upon consideration of the entire record, and in the absence of more compelling evidence, the Commission finds that the values of Guanahani's assets at the construction site on January 27, 1959, the date of loss, were as follows:

Inventory of material and supplies (This is deemed to include in part the supplies indicated under item (a) above.)	\$ 612,086.50
Office furniture	5,646.50
Partially completed construction (This is deemed to include in part the supplies indicated under item (d) above.)	256,000.00
Debt due from claimant	<u>711,216.00</u>
	<u>\$1,584,949.00</u>

The Commission finds that the debt due from claimant did not constitute an asset of Guanahani that was taken by the Government of Cuba. It is therefore concluded that the aggregate value of Guanahani's assets on the date of loss was \$873,733.00.

As indicated under item (d) above, the record shows that Guanahani was indebted to suppliers in the amounts of \$216,723.00 and \$194,150.00, aggregating \$410,873.00. Accordingly, the Commission finds that the net worth of Guanahani or the excess of its assets over its liabilities on January 27, 1959 was \$462,860.00. It is concluded that claimant sustained a loss in that amount with respect to his stock interest in Guanahani.

Berlanti Construction Co., S.A. and Berlanti
Construction Company, Inc. of Delaware

Claimant, in effect, asserts two losses closely related to one another; namely, debts of the Cuban Government in the amount of \$567,550.00, and losses in the amount of \$2,786,496.60 on account of his stock interests in Berlanti Construction Co., S.A., a Cuban corporation, and in Berlanti Construction Company, Inc. of Delaware, an American corporation.

Section 505(a) of the Act provides as follows:

A claim under section 503(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered . . .

The record shows that Berlanti Construction Company, Inc. is a national of the United States within the meaning of Section 502(1)(B) of the Act.

(See Claim of Berlanti Construction Company, Inc., Claim No. CU-0871.) The Commission finds that the portion of the claim based on a stock interest in Berlanti Construction Company, Inc. is barred by the express provisions of Section 505(a) of the Act. Accordingly, so much of this claim as is based on an interest in Berlanti of Delaware is denied.

In this connection, it further appears that claimant is requesting \$500,000.00 as commissions due with respect to a contract to construct a housing development in Cuba entered into on November 20, 1958 between Berlanti of Delaware and the National Housing Commission (NHC) of Cuba, an agency of the Government of Cuba. In addition, claimant is requesting \$67,550.00 for expenses incurred in connection with that contract.

The record, including the evidence submitted in support of Claim No. CU-0871, discloses that claimant had been negotiating with NHC concerning a contract to build a low-cost housing development in Cuba. In the course of these negotiations, the Berlanti Construction Company, Inc. was organized on November 18, 1958 under the laws of Delaware, claimant's interest therein being 37.5%. NHC agreed to enter into a construction contract with Berlanti of Delaware and to pay certain finance and interest charges in an amount not to exceed 7.5% of the basic construction contract.

The construction contract between NHC and Berlanti of Delaware was concluded on November 20, 1958 and provided for a cost not to exceed \$10 million. The loan of \$10 million to finance the development was obtained through efforts of claimant and as indicated above, construction of the housing project commenced. The record includes a copy of a letter, dated July 11, 1958, from NHC to claimant indicating that claimant is entitled to a commission of 5% on account of arranging for financing the loan to Cuba, as well as compensation for expenses. By letter dated December 3, 1958, NHC stated that claimant was entitled to 5% of \$10 million as his fee. It further appears from an affidavit, dated November 25, 1966, from the former director of NHC that claimant had been authorized to expend funds in the course of obtaining the loan on behalf of the Government of Cuba. The record also includes copies

of bills claimant sent to the Government of Cuba in 1959, requesting payment of \$567,550.00 for services rendered and expenses incurred in connection therewith. Claimant's requests were ignored by Cuba, and to date claimant has never recovered any amount on account of that debt.

On the basis of the entire record, the Commission finds that the Government of Cuba owed claimant a debt in the aggregate amount of \$567,550.00. The Commission further finds in the absence of evidence to the contrary that claimant's loss in this respect occurred on January 27, 1959 when construction was halted by Cuban officials.

Claimant also seeks to recover \$825,000.00, representing his 37.5% share of \$6,190,382.16, the amount of a default judgment entered in a court of Florida on July 26, 1961 in favor of Berlanti of Delaware against the Government of Cuba (see Claim No. CU-0871). Inasmuch as this portion of the claim is based on a stock interest in an American corporation, it is denied pursuant to the express provisions of Section 505(a), supra. Moreover, the record in Claim No. CU-0871 shows that the judgment was vacated on December 27, 1961.

Another portion of the claim is based upon the asserted value of claimant's stock interest in Berlanti Construction Co., S.A. (Berlanti, S.A.) in the amount of \$1,953,996.60. Claimant relies upon the said statement of his assets and liabilities as of December 30, 1958, in which his interest in Berlanti, S.A. is shown as \$1,953,996.00, and upon another statement, dated January 2, 1959, showing the following as assets of Berlanti, S.A.:

Equipment	\$1,360,000.00
Furniture and office equipment	125,000.00
Remodeling of building and air conditioning system	116,650.00
Building materials	<u>352,346.60</u>
Total	<u>\$1,953,996.60</u>

As noted above, no records are available to support the foregoing statement. Moreover, it is noted from the statement of assets and liabilities of claimant as of December 30, 1958, apparently prepared by the same accountant

who set forth the foregoing assets of Berlanti, S.A., that claimant owed debts to Berlanti, S.A. in the amount of \$1,450,000.00. Other debts also appear in that statement, but a number of them in the amounts of \$380,256.00, \$355,000.00, \$186,000.00, \$70,000.00, and \$32,350.00, respectively, are not identified, and it is therefore unknown whether they were debts owing to Berlanti, S.A. or one of the other Cuban corporations involved in this claim. Additionally, it appears from the record in CU-0871 that the only asset owned by Berlanti, S.A. was the contract with NHC which Berlanti of Delaware had assigned to Berlanti, S.A. The record in CU-0871 also indicates that Berlanti, S.A. never acted, which also indicates that it owned no assets other than the assigned contract.

Furthermore, claimant states in his official claim form that the value of his stock interest in Berlanti, S.A. was \$7,500.00. Another stockholder of Berlanti, S.A., Ilona Gero Rieger, who also filed a claim against Cuba (CU-0657), likewise asserted a loss of \$7,500.00 for her stock interest in Berlanti, S.A. which was equivalent to the interest owned by claimant herein.

Upon consideration of the entire record, the Commission finds that claimant has failed to sustain the burden of proof with respect to the portion of his claim for a stock interest in Berlanti, S.A. It may be noted in this respect that there is no evidence of record in Claim No. CU-0871 or in Claim No. CU-0632 to establish that Berlanti, S.A. sustained any loss as a result of the cancellation of the contract that had been assigned to Berlanti, S.A. from Berlanti of Delaware. Moreover, the record in this claim is found insufficient to support this portion of the claim. Accordingly, this portion of the claim is denied.

Copetrol Oil Refining Co., S.A.

Claimant asserts a loss of \$1,330,292.26, representing \$1,100,000.00 for his stock interest in Copetrol Oil Refining Co., S.A. (Copetrol), a Cuban corporation, and \$230,292.26 for a debt due from Copetrol. Claimant relies on the statement of assets and liabilities as of December 30, 1958 which sets forth these amounts as part of his assets.

Based upon a copy of a stock certificate and other evidence of record, the Commission finds that claimant owned 44,000 shares of stock in Copetrol with a par value of \$25.00 per share. It further appears from a statement by an officer of Copetrol, dated December 30, 1958, that Copetrol had 57,600 shares of outstanding capital stock.

The record includes a statement, dated January 21, 1959, from the general manager of Copetrol indicating that between January 3 and 7 of 1959 the warehouse of Copetrol was "completely plundered by Fidel Castro's Rebel Army." On the basis of the foregoing, the Commission finds that Copetrol's assets were taken by Cuba on January 5, 1959.

It appears that no balance sheets for Copetrol are available. However, claimant has submitted other evidence concerning the assets and liabilities of Copetrol.

The asserted loss of \$1,100,000.00 for claimant's stock interest in Copetrol was computed on the basis of its par value, \$25.00 per share for 44,000 shares.

It appears from the evidence of record that Copetrol was organized in Havana, Cuba on June 18, 1958. Its purpose was to refine crude oil into gasoline and other related products.

With respect to Copetrol's assets, the following evidence is included in the record:

1. A statement, dated January 10, 1959, from the warehouse manager of Copetrol, indicating that the value of materials taken from Copetrol's warehouse was \$879,066.45. This statement is supported by one, dated January 21, 1959, from the general manager of Copetrol in which he listed the items of property thus taken by Cuba as follows:

2 Motorlevels Caterpillar A-12	\$ 26,000.00
1 Ferguson Petroleum	3,650.00
1 Generator Plant	125,000.00
2 Tornapoul	211,366.45
500 tons deformed bars 3/8	23,750.00
1 Block Johnson Plant	25,000.00
3 Bulldozers TD18 International	91,800.00
5,000 tons portland cement	225,000.00
Assorted material of steel	60,000.00
Ingots, etc.	<u>87,500.00</u>
Total	<u>\$879,066.45</u>

2. A statement, dated January 23, 1959, from the general manager of Copetrol listing the following items as losses:

- Legal expenses to form the company	\$ 163,246.00
- Legal fees	33,000.00
- Advertising, etc.	22,460.00
Blue prints and engineering costs	95,976.50
Commission to real estate broker	132,237.00
Salaries, rent and other expenses	42,740.00
✓Advances to executive	25,000.00
✓Furniture	6,750.00
✓Land on Isle of Pines, Cuba	1,322,370.00
- Engineering work and preliminary studies	170,265.60
Projects on civil work, hydraulics, etc.	85,976.50
✓Equipment and material	879,066.45
Promotional work	150,000.00
✓Cash	<u>16,550.00</u>
Total	<u>\$3,145,638.05</u>

3. A statement, dated January 23, 1959, from the general manager of Copetrol indicating that out of the \$3,145,638.05, the amount of \$1,670,292.26 is "presumed unpaid", leaving a net amount of \$1,670,292.26. However, the statement fails to indicate which of the items remain unpaid and to what extent.

4. A statement, dated October 9, 1958, from the President of a Cuban corporation which sold the land on the Isle of Pines to Copetrol, indicating that the land had been sold for \$1,322,370.00, and that \$132,327.00 had been paid by Copetrol on account.

An examination of the list set forth under (2) above indicates that all of the items therein except advances to executives, furniture, land, and cash constitute organization expenses that normally would be amortized over a period of time. The Commission has had occasion to consider whether organization expenses should be deemed to be an asset of a nationalized entity for the purposes of Title V of the Act. The Commission has held that if the earnings of the entity were sufficiently large in relation to the amount of organization expenses, it could be concluded that the organization expenses enhanced the entity's value and therefore constituted a valuable asset of the entity. (See Claim of Albert J. Ferrero, Claim No. CU-1231.)

The record shows that Copetrol was organized on June 18, 1958, and that it existed only for a few months until January 5, 1959 when it was taken by the Government of Cuba. It does not appear from the evidence of record that Copetrol had any earnings during its existence. Under these circumstances, there is no valid basis for considering organization expenses in the amount of \$763,664.60, as shown by the record or in any amount, as an asset of Copetrol and the Commission so finds.

Upon consideration of the entire record, the Commission finds that the aggregate value of the assets of Copetrol on January 5, 1959, the date of loss, was as follows:

Land on Isle of Pines (The Commission finds that Copetrol's equity consisted of the payment of \$132,327.00 on account of the purchase of the land plus the commissions of \$132,237.00 paid to the real estate broker.)	\$ 264,564.00
Furniture	6,750.00
Equipment and material	879,666.45
Cash	16,550.00
Advances to executive (The Commission finds that claimant is the executive in question on the basis of his statement of assets and liabilities which shows that he owed \$25,000.00 to Copetrol.)	<u>25,000.00</u>
Total	<u>\$1,191,930.45</u>

The Commission finds that the item, advances to executive, did not constitute an asset of Copetrol that was taken by Cuba. Accordingly, the aggregate value of Copetrol's assets that were taken by Cuba was \$1,166,930.45. It further appears from the evidence of record that in addition to the debts Copetrol owed on account of the land, which has already been taken into consideration, Copetrol owed claimant a debt in the amount of \$230,292.26. The Commission therefore finds that the net worth of Copetrol or the excess of its assets over its liabilities on January 5, 1959, the date of loss, was \$936,638.19.

Since Copetrol had 57,600 shares of capital stock outstanding on the date of loss, the Commission finds that each share of stock had a value of \$16.261079. Therefore, the value of claimant's 44,000 shares was \$713,274.76.

The Commission has held that debts of a nationalized Cuban corporation owed to an American claimant constitute losses occurring on the date of nationalization within the meaning of Title V of the Act. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1956].)

As noted above, Copetrol owed claimant a debt in the amount of \$230,292.26. The Commission therefore finds that claimant's loss in that amount occurred on January 5, 1959 when Copetrol was taken by Cuba.

Fomento Excelsior Internacional, S.A.

Based upon affidavits and a stock certificate, the Commission finds that claimant owned 99 shares of stock in Fomento Excelsior Internacional, S.A. (Fomento). This Cuban corporation was organized in Cuba on October 25, 1956 and was engaged in importing, exporting and selling merchandise, primarily tri-dimensional pictures. On the basis of a statement of February 26, 1960 from an officer of Fomento

who has personal knowledge of the facts, the Commission finds that Fomento's assets were taken by the Government of Cuba on February 26, 1960. The evidence establishes that Fomento had 100 shares of capital stock outstanding on the date of loss. The remaining share of stock belonged to a nonnational of the United States.

It appears that no balance sheets or other financial statements concerning Fomento are available, all such records having been left in Cuba.

Claimant asserts a loss of \$432,292.85 on account of his stock interest in Fomento. It is noted, however, that in claimant's statement of assets and liabilities, his interest in Fomento is shown as having a value of \$250,050.00.

With respect to the value of Fomento, the record includes the following evidence:

(A) A statement, dated December 3, 1958, from an officer of Fomento, indicating that Fomento's inventory of merchandise in stock amounted to \$432,292.85, the amount being claimed herein; and that the total assets of Fomento aggregated \$627,256.25.

(B) A detailed inventory of said stock, dated February 27, 1960, showing various items of property aggregating \$432,292.85. That inventory includes, inter alia, furniture valued at \$2,450.00, cash in the amount of \$6,464.00, and other items of inventory valued at \$46,450.00.

(C) Copies of invoices evidencing the purchase of a number of items that are included in the inventory. Those invoices show purchases of 1,170 watch bands on November 21, 1958 costing \$11,115.00; 1,230 gross of items of costume jewelry on November 20, 1958 costing \$71,744.00; 14,375 optical frames on July 11, 1958 costing \$38,237.50; 35,000 screens for tri-dimensional pictures on April 25, 1957 costing \$70,925.00; and 62,000 unused films on April 25, 1957 costing \$117,800.00. The record shows that all of these purchases were paid for in full by Fomento.

It further appears from claimant's statement of assets and liabilities that he owed Fomento a debt in the amount of \$20,010.00. The Commission finds, however, that this account receivable did not constitute an asset of Fomento that was taken by Cuba. On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that Fomento had no liabilities.

Accordingly, the Commission finds that the net worth of Fomento or the excess of its assets over its liabilities on February 26, 1960, the date of loss, was \$627,256.25. Therefore, each of the 100 shares of outstanding capital stock had a value of \$6,272.5625, and claimant's 99 shares had a value of \$620,983.69.

Claimant's losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Personal belongings	March 10, 1961	\$ 60,796.60✓
Guanahani - stock interest	January 27, 1959	462,860.00
Debt of Cuban Government	January 27, 1959	567,550.00✓
Copetrol - stock interest	January 5, 1959	713,274.76
Debt due from Copetrol	January 5, 1959	230,292.26✓
Fomento - stock interest	February 26, 1960	<u>620,983.69</u>
Total		<u>\$2,655,757.31</u>

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 this case it is so ordered as follows:

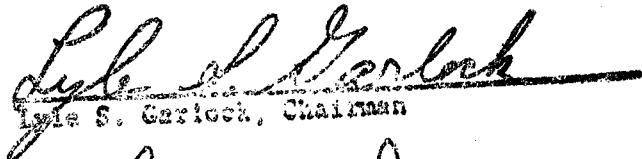
<u>FROM</u>	<u>ON</u>
January 5, 1959	\$ 943,567.02
January 27, 1959	1,030,410.00
February 26, 1960	620,983.69
March 10, 1961	<u>60,796.60</u>
Total	<u>\$2,655,757.31</u>

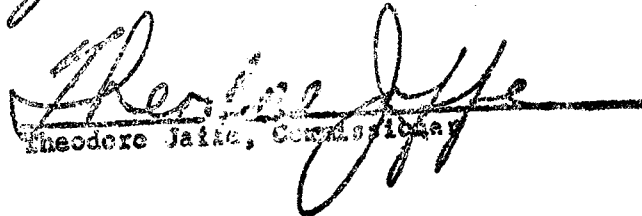
CERTIFICATION OF LOSS

The Commission certifies that ANGEL PAGLIUCA 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 Million Six Hundred Fifty-five Thousand Seven Hundred Fifty-seven Dollars and Thirty-one Cents (\$2,655,757.31) 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

OCT 14 1970


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