

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

IN THE MATTER OF THE CLAIM OF

JONAS HAIES & COMPANY, INC.

Claim No. CU -1277

Decision No. CU -340

Under the International Claims Settlement  
Act of 1949, as amended

ORDER AND AMENDED PROPOSED DECISION

On September 20, 1967, the Commission issued its Proposed Decision in this claim against the Government of Cuba, denying the claim because of claimant's failure to sustain the burden of proof. Claimant corporation objected to the Proposed Decision, and thereafter submitted additional evidence and information in support of this claim. The matter having been reconsidered it is

ORDERED that the Proposed Decision of the Commission be, and the same is amended to read as follows:

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JONAS HAIES & COMPANY, INC., in the amount of \$9,589.57, and is based upon the asserted loss of payment for merchandise shipped to Cuba.

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.

An officer of the claimant corporation has certified that the claimant was organized in the State of New York and that at all times between February 1957 and presentation of this claim on April 3, 1967, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record discloses that all of the outstanding capital stock of the claimant is held by Jonas Haies, a national of the United States since the naturalization of his father on April 2, 1921.

The record includes copies of correspondence from banks, copies of invoices, and other documents concerning shipments of merchandise to Cuban business firms, listed hereafter as the consignees. This evidence discloses that the purchase price of the goods and accompanying charges for such shipments were, in many instances, paid by the consignees to local Cuban banks; and that the dollar reimbursement releases or authorization were never granted by Cuban governmental authorities. Other collections for shipments made by claimant were not paid to the collecting bank by the consignee; claimant states that it has not received any of the funds for shipments listed herein.

There follows hereafter a listing of shipments made to Cuban consignees, including information on paid and unpaid collections, with the dates on which payments were acknowledged, or the dates when the unpaid collections were due and payable:

<u>Consignee</u>	<u>Bank Number</u>	<u>Amount</u>	<u>Date Payment Acknowledged or Due if Unpaid</u>
Ortiz Lloreda & Co., S.A., Santiago de Cuba	477950E	\$ 322.85	November 11, 1959 (due date)
Importadora Salinec, Havana	484638E	\$ 908.46	November 24, 1959 (due date)
Muguira y Cia., Havana	466714E	\$ 1203.34	February 22, 1960
Ferretaria Consolidada S.A., Havana	514925E	\$ 2234.02	March 28, 1960
Cia Internacional De Ventas A Piazos, S.A. Guanabacoa, Cuba	514315E	\$ 1309.59	April 20, 1960
Jose Efron, Havana	514318E	\$ 1140.16	June 1, 1960
Cia. Commercial Gancedo, S.A., Havana	514317E	\$ 908.66	July 1, 1960
Marce y Compania, Santiago de Cuba	468294E	\$ 1403.09	July 4, 1960
La Casa Pons, S.A. Havana	311251E	\$ 159.40	September 21, 1960

Concerning the Ortiz Lloreda and Importadora Salinec collections, the above listed due dates are determined on the basis of "60 days" terms stated in the invoices of record.

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The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded not only transfers of funds to creditors abroad, but also payment to creditors within Cuba, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See Claim of The Schwarzenbach Huber Company, Claim No. CU-0019, 25 FCSC Semiann. Rep. 58 /\_July-Dec. 1966\_/; and Claim of Etna Pozzolana Corporation, Claim No. CU-0049).

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the losses occurred on the respective due dates of the two unpaid collections. The Commission further finds that in those instances in which payments were made by the consignees, the losses occurred on the days after payments were acknowledged by the Cuban banks.

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 date of loss to the date of settlement (See Claim of Lisle Corporation, Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred to the date on which provisions are made for settlement thereof, as follows:

On \$322.85 from November 11, 1959  
On \$908.46 from November 24, 1959  
On \$1,203.34 from February 23, 1960  
On \$2,234.02 from March 29, 1960  
On \$1,309.59 from April 21, 1960  
On \$1,140.16 from June 2, 1960  
On \$908.66 from July 2, 1960  
On \$1,403.09 from July 5, 1960  
On \$159.40 from September 22, 1960.

CERTIFICATION OF LOSS

The Commission certifies that JONAS HAIES & COMPANY, INC. 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 Nine Thousand Five Hundred Eighty-Nine Dollars and Fifty-Seven Cents (\$9,589.57) 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 Amended  
Proposed Decision of the  
Commission

MAY 15 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

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 claim. 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 Amended 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).)

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

IN THE MATTER OF THE CLAIM OF

JONAS HAIES & COMPANY, INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -1277

Decision No. CU 340

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$9,589.57, was presented by JONAS HAIES & COMPANY, INC. and is based upon the asserted loss of payment for merchandise shipped to Cuba.

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.

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) (Supp. 1967).)

Claimant asserts that at all times between February 1957 and the presentation of this claim on April 3, 1967, more than 50 percent of the outstanding stock of JONAS HAIES & COMPANY, INC. was held by Jonas Haies. However, no evidence of the nationality of Jonas Haies or the place of incorporation of the claimant has been received. By Commission letter of May 29, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence in response to this correspondence has been received to date.

On July 19, 1967, claimant was invited to submit any evidence available to claimant within 45 days from that date, and claimant was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

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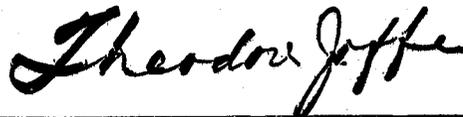
The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership, by a national or nationals of the United States, of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

**SEP 20 1967**



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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).)

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

IN THE MATTER OF THE CLAIM OF

DORIS JUNE SANDERS

Claim No. CU -2400

Decision No. CU -341

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant: Saul J. Cooper, Esq.

Appeal and objections from a Proposed Decision entered September 20, 1967;  
No oral hearing requested; Hearing on the record.

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Hearing on the record held on February 12, 1968

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FINAL DECISION

The Commission issued its Proposed Decision in this claim on September 20, 1967, denying the claim for the reason that claimant failed to establish ownership of rights and interests in property which was nationalized or otherwise taken by the Government of Cuba. Thereafter, claimant objected to the Proposed Decision and submitted, through counsel, certain lists of personal property and copies of stock certificates but has failed to submit supporting information or evidence to establish ownership, loss and value of the property, subject of this claim.

Full consideration having been given to the objections of the claimant, and the entire record, including claimant's objections, having

been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

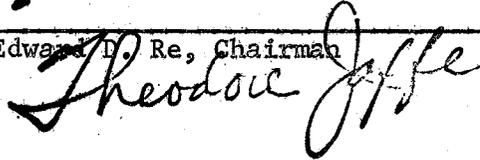
ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

**FEB 21 1968**



Edward D. Re, Chairman



Theodore Jaffe, Commissioner