

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

IN THE MATTER OF THE CLAIM OF

SAMUEL BLACKMAN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2059

Decision No. CU -1842

AMENDED PROPOSED DECISION

By Proposed Decision dated May 15, 1968, the Commission certified a loss to this claimant in the amount of Two Hundred Fifty-One Dollars (\$251.00) based upon claimant's ownership of a stock interest in Compania Litographica de la Habana, S. A. (Havana Lithographing Company), hereinafter referred to as Havana Lithographing.

The claimant having thereafter submitted additional evidence in support of the claim, and the matter having been duly considered, it is

ORDERED that the Proposed Decision be and it is hereby amended to read as follows:

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.

Claim is presented for an interest in 500 shares of stock issued by Havana Lithographing. The certificates in question are Nos. CLHC 24435, CLCH 24721, CLHC 26503, CLHC 26978 and CLHC 26979.

On the basis of evidence of record, the Commission finds that claimant is, and since prior to October 13, 1960, has been, the owner of 200 shares of common stock of Havana Lithographing. The certificates representing the shares in question are Nos. CLHC 24435 and CLHC 24721.

Accordingly, in the instant claim, the Commission finds that claimant, as holder of 200 shares of the common stock of Havana Lithographing on October 13, 1960, 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.

On the basis of evidence of record, the Commission further finds that claimant acquired 100 shares of common stock of Havana Lithographing represented by certificate No. CLCH 26503 which he purchased on October 9, 1961 for a consideration of \$53.15, and that claimant also acquired an additional 200 shares of said stock represented by certificates Nos. CLHC 26978 and CLHC 26979 purchased on June 1, 1962 for a consideration of \$66.65.

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. The loss occurred on October 13, 1960. Claimant has been unable to obtain information or evidence to establish the nationality of the owner of these 300 shares of stock on the date of loss, and to establish continuous United States ownership of said securities until the dates 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 dates 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, upon his purchase of the subject securities on October 9, 1961 and June 1, 1962, succeeded to the loss sustained by the assignor of the claimed securities, and concludes that he succeeded to and suffered a loss in the total amount of \$119.80 (the price he paid) as a result of the nationalization of Havana Lithographing on October 13, 1960.

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 that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum, as follows:

|   |              |
|---|--------------|
| from October 13, 1960 as to                   | \$502.00     |
| from October 9, 1961 (date of purchase) as to | 53.15        |
| from June 1, 1962 (date of purchase) as to    | <u>66.65</u> |
|   | \$621.80     |

to the date on which provisions are made for the settlement thereof.

The certification of loss, as restated below, will be entered, and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that SAMUEL BLACKMAN 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 Six Hundred Twenty-One Dollars and Eighty Cents (\$621.80) with interest at 6% per annum from the respective dates of loss or purchase to the date of settlement.

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

JUL 31 1968

*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 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).)

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Claim No. CU -2059

Decision No. CU **1842**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in an unspecified amount, was presented by SAMUEL BLACKMAN on April 26, 1967 based upon the asserted ownership of a stock interest in Compania Litografica de la Habana, S. A. (Havana Lithographing Company), hereinafter referred to as Havana Lithographing. Claimant has been a national of the United States since his naturalization on September 16, 1912.

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.

On the basis of evidence of record, the Commission finds that claimant is, and since prior to October 13, 1960, has been, the owner of 100 shares of common stock of Havana Lithographing. The certificate representing the shares in question is No. CLHC 24435.

On October 13, 1960, the Government of Cuba published Law 890 in its Official Gazette, which listed as nationalized Compania Litografica de la Habana, S. A. Accordingly, the Commission finds that Havana Lithographing was nationalized by the Government of Cuba on October 13, 1960, and that claimant's interest in the enterprise was taken on that date.

In determining the value of the interest owned by claimant 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 thus 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.)

Accordingly, in the instant claim, the Commission finds that claimant, as holder of 100 shares of the common stock of Havana Lithographing, suffered a loss in the amount of \$251.00 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.

A portion of this claim is based upon the asserted ownership of an additional 400 shares of common stock of Havana Lithographing. The certificates representing the shares in question are Nos. CLHC 24721, CLHC 26503, CLHC 26978, and CLHC 26979. The record discloses that claimant purchased these shares in October, 1961, June, 1962, and May, 1967.

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 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens;

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).)

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned, in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

By Commission letter of March 11, 1968, it was suggested that claimant submit evidence to establish the identity and United States nationality of the owner or owners of said shares on October 13, 1960 and continuously thereafter to the respective dates of claimant's acquisition.

However, no evidence in response to this correspondence has been received to date.

The Commission finds, as to this portion of the claim that claimant has not met the burden of proof in that he has failed to establish that the subject shares were owned by a national of the United States on the date of loss, and that the resulting claim was continuously so owned until the date of filing with the Commission.

Thus, the Commission is constrained to deny this portion of the claim, and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of this portion of the claim.

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.)

Accordingly, the Commission concludes that the amount of loss sustained by the claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SAMUEL BLACKMAN 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 Fifty-One Dollars (\$251.00) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

MAY 15 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: The above-listed certificates and/or shares may have been returned to claimant and no payment should be made until they are resubmitted.

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).)