

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

IN THE MATTER OF THE CLAIM OF

DANIEL I. FARBER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2301

Decision No. CU 1166

AMENDED PROPOSED DECISION

By its Proposed Decision dated February 7, 1968, the Commission denied this claim for the reason that claimant had not met the burden of proof, in that he had failed to establish ownership of rights and interests in property which was naturalized, expropriated or otherwise taken by the Government of Cuba.

Subsequently, claimant submitted additional evidence in support of this claim. Full consideration having been given to the entire record in this claim, it is

ORDERED that the Proposed Decision be 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 DANIEL I. FARBER, and is based upon the asserted loss of \$2,010.00, sustained in connection with the 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 birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-143k (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 and his deceased wife were, and since prior to October 13, 1960, had been, the owners of 500 shares of common stock of Havana Lithographing. The certificates representing the shares in question are Nos. CLHC 24481 through 24485 inclusive.

The evidence of record discloses that Mary S. Farber and DANIEL I. FARBER were named as joint tenants with rights of survivorship and not as tenants in common on the stock certificates forming the basis of this claim. Mary Farber, a national of the United States at all times pertinent to this claim, died on December 2, 1965 and her husband, claimant herein, succeeded to her interest on that date.

The record further discloses that Compania Litografica de la Habana, S.A., was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. This corporation was organized under the laws of Cuba and 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. Therefore, claimant is entitled to file this claim based upon an ownership interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180.)

In determining the value of the interest owned by claimant and his deceased wife 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 and his deceased wife, as holders of 500 shares of the common stock of Havana Lithographing, suffered a loss in the amount of \$1,255.00 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.

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 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 DANIEL I. FARBER succeeded to and 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 One Thousand Two Hundred Fifty-Five Dollars (\$1,255.00) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

JUN 13 1968

Leonard W. B. Sutton

Leonard W. B. Sutton, Chairman

Theodore Jaffe

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).)

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

IN THE MATTER OF THE CLAIM OF

DANIEL I. FARBER

Claim No. CU-2301

Decision No. CU-1166

Under the International Claims Settlement
Act of 1949, as amended

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 \$2,010.00, was presented by DANIEL I. FARBER based upon the asserted loss of stock interests in the Havana Lithographing Company of Cuba. Claimant states that he has been a national of the United States since his 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:

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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 the ownership of certain stock interests in the Havana Lithographing Company of Cuba; however, other than purchase receipts and copies of purported stock certificates, claimant has submitted no documentary evidence in support of his claim. By Commission letters of October 17, 1967 and December 7, 1967, claimant was advised as to the type of evidence proper for submission to establish his claim under the Act.

On December 7, 1967, claimant was invited to submit any evidence he might have within 30 days from that date, and he was informed that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Claimant has not responded to the correspondence of the Commission and no additional evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof, in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

FEB 7 1968

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 13 1968

Francis Macfarlane
Clerk of the Commission

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).)