

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

IN THE MATTER OF THE CLAIM OF

GRACE BORAX ABRAVANEL
FLORENCE ABRAVANEL
EUGENE V. ABRAVANEL
and
SANDRA A. FELDMAN

Claim No. CU-2563
Claim No. CU-2564
Claim No. CU -2565
Claim No. CU-2566

Decision No. CU - 6218

**Under the International Claims Settlement
Act of 1949, as amended**

Counsel for claimants:

Regosin, Edwards & Freeman
By Andrew Freeman, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amounts of \$330,732.13, \$110,244.04, \$110,244.04 and \$110,244.04, were presented by GRACE BORAX ABRAVANEL, FLORENCE ABRAVANEL, EUGENE V. ABRAVANEL and SANDRA A. FELDMAN based upon the asserted loss of certain real and personal property in Cuba. Claimants have been nationals 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 measure 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.

Claimants assert the following losses:

GRACE BORAX ABRAVANEL

House and lot	\$ 56,500.00
Furniture and furnishings of home	6,465.00
Concordia Textil, S.A.. a Cuban corporation - stock interest	<u>267,767.13</u>
Total	<u>\$330,732.13 *</u>

* Plus a life estate in the properties inherited by her three children, the other claimants herein.

FLORENCE ABRAVANEL, EUGENE V. ABRAVANEL
and SANDRA A. FELDMAN, Each

House and lot	\$ 18,833.33
Furniture and furnishings	2,155.00
Concordia Textil, S.A. - stock interest	<u>89,255.71</u>
Total	<u>\$110,244.04 *</u>

* Subject to a life estate in favor of GRACE BORAX ABRAVANEL.

The evidence establishes that claimants owned interests in certain properties in Cuba, discussed in detail below. Pursuant to the community property laws of Cuba, GRACE BORAX ABRAVANEL and her husband, Isidoro Abravanel who died February 10, 1959, jointly owned certain real and personal property in Cuba. (See Claim of Robert L. Cheaney et ux., Claim No. CU-0915.) Upon the death of Isidoro Abravanel, his one-half interests in the properties were inherited by his three children - FLORENCE ABRAVANEL, EUGENE V. ABRAVANEL and SANDRA A. FELDMAN - in equal shares subject to a life estate in one-fourth of his estate in favor of GRACE BORAX ABRAVANEL. (See Certificate of Inheritance of April 13, 1960, marked Exhibit C, and State Department file, marked Exhibit V.) Accordingly, GRACE BORAX ABRAVANEL owned outright one-half interests in the properties herein plus a life estate in one-eighth interests in the

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properties. Her three children, the other claimants herein, jointly owned the one-half interests inherited from their father subject to their mother's life estate.

House and Lot

Based upon reports from abroad; pertinent files of the Department of State; and affidavits from GRACE BORAX ABRAVANEL, the Commission finds that claimants owned interests, as set forth above, in certain improved real property at 66-67 Avenida Septima, Marianao, Havana, Cuba.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law, the renting of urban properties and all transactions or contracts involving the transfer of the total or partial use of urban properties were outlawed (Article 2). The Commission finds that the house and lot at Marianao, Havana, Cuba were within the purview of the Urban Reform Law and, in the absence of evidence to the contrary, the Commission further finds that the improved real property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Claimants assert that the house and lot had a value of \$135,000.00, and that their equity was \$113,000.00 after deduction of an outstanding mortgage of \$22,000.00. The record shows that the lot, measuring 876 square

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meters in area, was acquired on June 27, 1951 for \$25,000.00, the Cuban peso being on a par with the United States dollar. Mrs. Abravanel states that as a result of the improvement of the land by her and the general improvement of the area in which the property was located, the land appreciated in value to \$35,000.00 by the time it was taken by Cuba.

The record shows that the construction of a house on the land was commenced in 1958 and was completed in 1959. Mrs. Abravanel's affidavit of February 19, 1971 recites that the aggregate cost of the house and the land was approximately \$130,000.00. The house was a two-story structure with a specially built foundation to accommodate two more stories. The street was paved, sidewalks and a parkway were built, and a curved concrete driveway was constructed. A forecourt was constructed with a marble floor and flagstone walls, closed by iron doors, glass encased.

The house included a large foyer with tile and marble flooring; a large panelled dining room; sliding glass doors; iron grillwork at the windows and doors on the first floor; a large kitchen with electric equipment, an electric dumbwaiter and other facilities; a laundry room; a breakfast room and garden. The second floor contained a large foyer and four rooms, and a terrace.

The evidence includes an affidavit of March 5, 1971 from counsel for claimants concerning folders of paid bills and invoices in Spanish, which were examined. These documents relate to the cost of constructing the house. Apparently, there were four such folders of bills and invoices, but only two could be located. The two folders of bills and invoices aggregate between \$20,000.00 and \$30,000.00, indicating costs aggregating between \$40,000.00 and \$60,000.00. They cover the period June 1958 to May 1959.

Upon consideration of the entire record, the Commission finds that claimants' valuation is fair and reasonable. Accordingly, the Commission finds that the value of the house and lot on October 14, 1960, the date of loss, was \$135,000.00, and that claimants' equity in the property after deduction for a mortgage of \$22,000.00 was \$113,000.00. Therefore, a one-half interest in the property had a value of \$56,500.00, and a one-eighth interest had a value of \$14,125.00. The record shows that GRACE BORAX ABRAVANEL was 46 years of age on the date of loss.

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With respect to the values of life and remainder interests, the Commission has adopted the Makehamized mortality table used by the United States Treasury Department in connection with the collection of gift and estate taxes. (See Claim of Richard Franchi Alfaro and Anna Alfaro, Claim No. CU-0048, 1967 FCSC Ann. Rep. 71.) Pursuant to that method of valuation, a life estate in property of a person 46 years of age is valued at 56.559% of the estate. Since the encumbered property had a value of \$14,125.00, the value of the life estate was \$7,988.96 and the remainder interests (43.441%) aggregated \$6,136.04. Therefore, GRACE BORAX ABRAVANEL'S total interest had a value of \$64,488.96, and the interests of FLORENCE ABRAVANEL, EUGENE V. ABRAVANEL and SANDRA A. FELDMAN had values of \$16,170.35, \$16,170.35 and \$16,170.34, respectively.

Furniture and Furnishings

On the basis of the evidence of record, the Commission finds that GRACE BORAX ABRAVANEL and her late husband jointly owned certain furniture and other household possessions that were situated in the house in Marianao, Havana, Cuba. The Commission further finds that claimants' interests in the personal properties were identical with their interests in the improved real property, and that the items of personal property were taken by the Government of Cuba on October 14, 1960, when the real property was taken.

Claimants assert that the aggregate value of the items of personal property was \$12,930.00. The record includes two certified lists of the items of personal property prepared by GRACE BORAX ABRAVANEL. One is dated October 28, 1968 and indicates the dates of acquisition and original costs of the items of personal property. The other list is dated January 15, 1971 and sets forth asserted "present market values" of some of the items based upon Mrs. Abravanel's personal experience as a buyer of antiques and as an interior decorator. The Commission finds that some of the items were subject to depreciation.

Thus, items of furniture are subject to depreciation at five per cent per annum, appliances at ten per cent, and linens, etc., 15 per cent. Certain items purchased in 1939 and 1941 had only residual value. Accordingly,

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the Commission finds that the appliances, furniture and linen had a value of \$3,124.05 on the date of loss.

With respect to the remainder of the personal property, the Commission has considered dates of acquisition, costs, asserted 1971 market value and has made appropriate adjustments. Accordingly the value of the rugs, candelabrum, silverware and antiques is found as \$6,519.67 on the date of loss.

Accordingly, the aggregate value of the furniture and furnishings on October 14, 1960, the date of loss was \$9,643.72. Therefore, a one-half interest therein had a value of \$4,821.86, and a one-eighth interest had a value of \$1,205.46. On the basis of the foregoing, GRACE BORAX ABRAVANEL's life estate had a value of \$681.80, and the remainder interests aggregated \$523.66. Therefore, GRACE BORAX ABRAVANEL's total interest had a value of \$5,503.66, and the interests of FLORENCE ABRAVANEL, EUGENE V. ABRAVANEL and SANDRA A. FELDMAN each had a value of \$1,380.02.

Concordia Textil, S.A.

On the basis of stock certificates, pertinent files of the State Department, and Mrs. Abravanel's statements, the Commission finds that GRACE BORAX ABRAVANEL and her late husband jointly owned 8,798 shares of stock in Concordia Textil, S.A. (Concordia), a Cuban corporation. The Commission further finds that claimants' interests in those shares of stock were identical with their interests in the above improved real property and the furniture and furnishings.

Concordia was organized in Cuba in 1939 as a small ribbon factory. In 1950 new facilities were added for the weaving and finishing of synthetic fabrics. Concordia's capital expanded from \$20,000.00 in 1939 to \$1,500,000.00 when it was intervened by Cuba.

The record shows that pursuant to Resolution No. 1296-A issued by the Ministry for Recuperation of Misappropriated Properties, Concordia was intervened by the Government of Cuba on January 4, 1960.

Since Concordia 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

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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.)

Claimants assert that Concordia had a net worth of \$913,000.00 on the date of loss, and therefore claim the aggregate amount of \$535,534.26 on the basis of their 8,798 shares out of a total of 15,000 outstanding shares. In support of their assertion, they have submitted a copy of Concordia's balance sheet as of December 31, 1959 (State Department file, marked Exhibit XI). The record also includes copies of Concordia's balance sheets as of December 31, 1958 (State Department file, marked Exhibit X) and February 28, 1959 (Exhibit F).

It is noted that the balance sheet as of December 31, 1959, closest to the date of loss, sets forth all of the accounts of Concordia rounded off to the nearest \$1,000.00. Accordingly, the Commission made appropriate inquiries concerning the accuracy of that balance sheet.

It appears from the record that Benjamin Borax, brother of GRACE BORAX ABRAVANEL, went to Cuba immediately after the death of Isidoro Abravanel and assumed the office of Executive President of Concordia, which position he held until the date of intervention. (See Affidavits of Benjamin Borax, dated April 2, 1970 and September 14, 1970, and State Department file, marked Exhibit VI.) The balance sheet as of December 31, 1959 and the other balance sheets for Concordia had been prepared by the former Vice President of Concordia, who is now deceased. In view of the circumstances that existed with respect to Concordia in December 1959 shortly before intervention, the books and records of Concordia could not be audited. Accordingly, the balance sheet as of December 31, 1959 was prepared on the basis of the two earlier balance sheets and the recollections of Benjamin Borax and the late Vice President of Concordia concerning transactions that

occurred subsequent to February 28, 1959, the date of the last previous balance sheet which was prepared upon examination of Concordia's books and records.

Appended to the affidavit of Benjamin Borax of September 14, 1970 are:

(a) a list of Concordia's machinery prepared in Havana, Cuba on February 22, 1959 at the time he assumed the office of Executive President; (b) the payroll list of Concordia prepared during the lifetime of Isidoro Abravanel; (c) an undated letter from another brother of Mrs. Abravanel discussing the possibility of selling the Abravanel's stock interest in Concordia; (d) two pages from a Cuban magazine devoted to the activities of Concordia; and (e) several photographs of the interior of Concordia's plant showing its machinery and equipment.

Upon consideration of the entire record, the Commission finds that the balance sheet as of December 31, 1959 fairly represents Concordia's financial condition at that time. The Commission further finds that the valuation most appropriate in this case and equitable to the claimants is that shown by the balance sheet as of December 31, 1959, with certain adjustments noted hereafter.

The balance sheet as of December 31, 1959 shows that Concordia's assets aggregated \$3,118,000.00. Among those assets are: Advances (receivables) to officers, employees and workers in the amount of \$10,000.00, and raw material in transit in the amount of \$80,000.00. The Commission finds in the absence of evidence to the contrary that the receivables of \$10,000.00 were not taken by the Government of Cuba, and that the raw material in transit, being outside the jurisdiction of Cuba, could not have been taken by the Government of Cuba. Accordingly, the Commission finds that Concordia's assets on January 4, 1960, the date of loss, aggregated \$3,028,000.00.

It further appears that Concordia's liabilities aggregated \$2,205,000.00. The Commission therefore finds that the net worth of Concordia, or the excess of its assets over its liabilities, on the date of loss was \$823,000.00. Since Concordia had 15,000 shares of outstanding capital stock on the date

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of loss, the Commission finds that the value of one share of its stock was \$54,8667. Therefore, 8,798 shares had a value of \$482,717.23; a one-half interest therein had a value of \$241,358.61; and a one-eighth interest had a value of \$60,339.65. Accordingly, GRACE BORAX ABRAVANEL's life estate had a value of \$34,127.50, and the remainder interests aggregated \$26,212.15. Therefore, GRACE BORAX ABRAVANEL's total interest had a value of \$275,486.11, and the interests of FLORENCE ABRAVANEL, EUGENE V. ABRAVANEL and SANDRA A. FELDMAN each had a value of \$69,077.04.

Recapitulation

Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>GRACE BORAX ABRAVANEL</u>		
House and lot	October 14, 1960	\$ 64,488.96
Furniture and furnishings	October 14, 1960	5,503.66
Concordia - stock interest	January 4, 1960	<u>275,486.11</u>
Total		<u>\$345,478.73</u>
<u>FLORENCE ABRAVANEL</u>		
House and lot	October 14, 1960	\$ 16,170.35
Furniture and furnishings	October 14, 1960	1,380.02
Concordia - stock interest	January 4, 1960	<u>69,077.04</u>
Total		<u>\$ 86,627.41</u>
<u>EUGENE V. ABRAVANEL</u>		
House and lot	October 14, 1960	\$ 16,170.35
Furniture and furnishings	October 14, 1960	1,380.02
Concordia - stock interest	January 4, 1960	<u>69,077.04</u>
Total		<u>\$ 86,627.41</u>

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SANDRA A. FELDMAN

House and lot	October 14, 1960	\$ 16,170.34
Furniture and furnishings	October 14, 1960	1,380.02
Concordia - stock interest	January 4, 1960	<u>69,077.04</u>
Total		<u>\$ 86,627.40</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 the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
<u>GRACE BORAX ABRAVANEL</u>	
January 4, 1960	\$275,486.11
October 14, 1960	<u>69,992.62</u>
Total	<u>\$345,478.73</u>

<u>FLORENCE ABRAVANEL</u>	
January 4, 1960	\$ 69,077.04
October 14, 1960	<u>17,550.37</u>
Total	<u>\$ 86,627.41</u>

<u>EUGENE V. ABRAVANEL</u>	
January 4, 1960	\$ 69,077.04
October 14, 1960	<u>17,550.37</u>
Total	<u>\$ 86,627.41</u>

<u>SANDRA A. FELDMAN</u>	
January 4, 1960	\$ 69,077.04
October 14, 1960	<u>17,550.36</u>
Total	<u>\$ 86,627.40</u>

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CERTIFICATIONS OF LOSS

The Commission certifies that GRACE BORAX ABRAVANEL 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 Three Hundred Forty-Five Thousand Four Hundred Seventy-Eight Dollars and Seventy-Three Cents (\$345,478.73) with interest at 6% per annum from the respective dates of loss to the date of settlement;

The Commission certifies that FLORENCE ABRAVANEL 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 Eighty-Six Thousand Six Hundred Twenty-Seven Dollars and Forty-One Cents (\$86,627.41) with interest at 6% per annum from the respective dates of loss to the date of settlement;

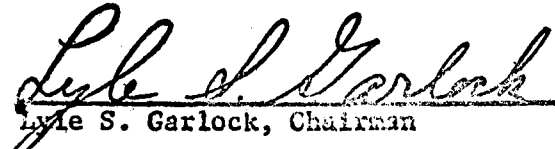
The Commission certifies that EUGENE V. ABRAVANEL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighty-Six Thousand Six Hundred Twenty-Seven Dollars and Forty-One Cents (\$86,627.41) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

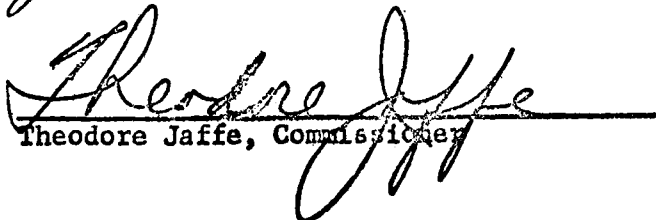
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The Commission certifies that SANDRA A. FELDMAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighty-Six Thousand Six Hundred Twenty-Seven Dollars and Forty Cents (\$86,627.40) 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

JUN 8 1971


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 (1970).)

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