

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

IN THE MATTER OF THE CLAIM OF

STUART E. ROBINSON  
OLGA ROBINSON

Claim No. CU-2598

Decision No. CU-6809

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered September 8, 1971;  
Oral hearing requested.

Oral hearing held October 13, 1971.

FINAL DECISION

By Proposed Decision dated September 8, 1971 the Commission issued a certification of loss to claimant in the amount of \$71,781.33 based on his interest in the Cuban entity, Cia. Lamparas Futurama, S.A. Parts of the claim based on a debt of Lamparas owing to International Lema Company, assertedly wholly-owned by claimant, and personal property of claimant's residence, were denied for failure of proof. Claimant objected to those items denied and to the value of Lamparas.

At an oral hearing held on October 13, 1971 claimant appeared on his own behalf. Additional documentary evidence was submitted and oral argument offered. Claimant was granted additional time in which to submit further evidence.

Upon consideration of claimant's testimony and the evidence submitted subsequent to the issuance of the Proposed Decision the Commission now modifies the Proposed Decision as follows:

1. Claimant's spouse, OLGA ROBINSON, a national of the United States at all pertinent times, is joined as a claimant herein. Under the Community Property Law of Cuba she had a 1/2 interest in her husband's property acquired during the marriage. Under the Separation Agreement of August 23, 1968 said OLGA ROBINSON did not waive any claim she might have had against the Government of Cuba.

2. The net value of Lamparas was \$87,392.74 at the time of loss inasmuch as an item of \$17,702.11, purportedly paid to it by International Lema Company, was never received, but remained in transit.

3. The personal and household effects had a value of \$13,150.00 on the date of loss.

Recapitulation

Claimants' losses are summarized as follows:

<u>Item</u>	<u>STUART E. ROBINSON</u>	<u>OLGA ROBINSON</u>	<u>Date of Loss</u>
Lamparas	\$43,696.37	\$43,696.37	May 31, 1966
Debt	2,090.07	--	May 31, 1961
Ford Car	490.00	490.00	December 1, 1960
Mercury Car	1,130.00	1,130.00	December 1, 1960
Personal Property	<u>4,955.00</u>	<u>4,955.00</u>	December 1, 1960
Total	\$52,361.44	\$50,271.37	

The Commission reaffirms its holding that interest shall be included in Certifications of Loss, and it will be included as follows:

	<u>FROM</u>	<u>ON</u>
STUART E. ROBINSON	May 31, 1961	\$45,786.44
	December 1, 1960	<u>6,575.00</u>
		\$52,361.44
OLGA ROBINSON	May 31, 1961	\$43,696.37
	December 1, 1960	<u>6,575.00</u>
		\$50,271.37

Accordingly the Certification of Loss in the Proposed Decision is set aside, the following Certifications of Loss will be entered and in all other respects the Proposed Decision, amended herein, is affirmed.

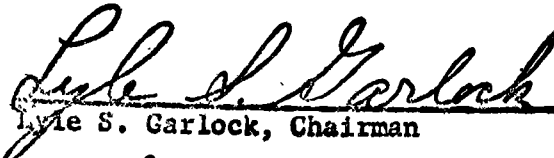
CERTIFICATIONS OF LOSS

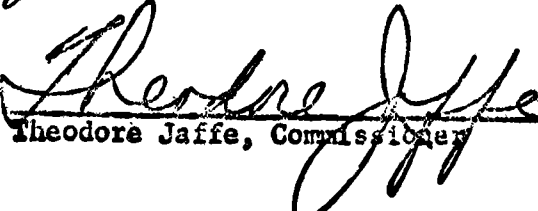
The Commission certifies that STUART E. ROBINSON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-Two Thousand Three Hundred Sixty-One Dollars and Forty-Four Cents (\$52,361.44) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that OLGA ROBINSON 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 Fifty Thousand Two Hundred Seventy-One Dollars and Thirty-Seven Cents (\$50,271.37) 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 Final  
Decision of the Commission

OCT 20 1971

  
Lyle S. Garlock, Chairman

  
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 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.

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

IN THE MATTER OF THE CLAIM OF

STUART E. ROBINSON

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2598

Decision No. CU - 6809

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 \$315,000.00, was presented by STUART E. ROBINSON based on the asserted loss of a stockholder's interest in a Cuban enterprise; debts of the said Cuban enterprise and personal and household effects. Claimant has been a national 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 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.

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)(1970).)

Claimant asserts the following losses:

	<u>Asserted Value</u>
1. Corporate value of Cia. Lamparas Futurama, S.A.	\$225,000.00
2. Capital Losses	75,000.00
3. Personal and household effects	<u>15,000.00</u>
Total	\$315,000.00

The record discloses that Cia. Lamparas Futurama, S.A., hereinafter referred to as Lamparas, was organized in Cuba and does not qualify as a corporate "national of the United States", within the meaning of 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.)

#### LAMPARAS

The record shows that since May 5, 1958 claimant was the sole stockholder of Lamparas, a company which designed and manufactured light fixtures and that Lamparas was intervened by the Government of Cuba on May 31, 1961 and formally nationalized on January 29, 1962.

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 particular circumstances is "most appropriate to the property and equitable to the claimant". The Commission has concluded that 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.

The determination as to which method will be found the most appropriate to the property and equitable to the claimant, depends on the evidence submitted and the facts of the individual claim. Claimant has submitted Balance Sheets for August 31, 1960 and October 31, 1960, as well as a Statement of Profits and Losses for the ten months ending October 31, 1960. No schedules for the Balance Sheets have been submitted.

Where the Commission adopts the going concern value of a business it considers the yearly average net profits. Such evidence is not before the Commission in the instant claim. The Commission finds that the book value method is the only one supported by the evidence.

Inasmuch as the October 31, 1960 Balance Sheet is closest to the date of nationalization the Commission deems it to be more equitable and appropriate. Said Balance Sheet reflects the following:

ASSETS

CURRENT

Cash on hand and in banks	\$ 709.53	
Accounts Receivable - Trade	72,059.54	
Other Receivables	649.12	

INVENTORIES: October 31, 1960

Warehouse	93,301.67	
Deposits	553.24	
Unexpired Insurance	243.64	

Total Current Assets \$167,516.74

PLANT & EQUIPMENT

Factory	\$10,993.86	
Office	1,402.20	
Truck	400.00	

	<u>\$12,796.06</u>	
Less: Reserve for depreciation	1,511.96	11,284.10

DEFERRED CHARGES

Organization Expenses	\$ 606.80	
Property Improvement	713.71	1,320.51

TOTAL ASSETS \$180,121.35

LIABILITIES & CAPITAL

LIABILITIES

Current

Note Payable - Bank	\$ 9,900.00	
Accounts Payable - Trade	67,651.23	
Tax payable	3,696.57	
Insurance	51.31	
Other Payable	81.18	
International Lema Co., Inc.	26,959.73	
Stuart E. Robinson	<u>2,090.70</u>	\$110,430.72

CAPITAL AND SURPLUS

Common Stock - Par Value \$100.00		
250 Shares		\$25,000.00
Previous year Deficit	(8,054.20)	
Ten months 1960 - Surplus	<u>52,744.83</u>	<u>44,690.63</u>

TOTAL LIABILITIES AND CAPITAL \$180,121.35

Accordingly the net worth of Lamparas on May 31, 1961, is found as \$69,690.63.

The Commission concludes that as a result of the intervention of Lamparas on May 31, 1961 by the Government of Cuba claimant suffered a loss, within the meaning of Title V of the Act, in the amount of \$69,690.63 with respect to his 100% ownership thereof.

#### CAPITAL LOSSES

Claimant states that he held stockholder interests in two corporations, Lamparas, as discussed above, and International Lema Company, assertedly a corporation organized under the laws of the State of New York. Since 1952 he invested sums of money in both, totalling \$75,000.00. It is asserted that the said International Lema Company went into voluntary bankruptcy in May of 1961 due to the large unpaid receivable due from Lamparas; the receivable had been paid but due to the restrictions of the Government of Cuba the pesos were never converted to United States dollars and released to International Lema Company.

Any investment into Lamparas has already been considered by the Commission in the determination of its net worth. As to International Lema Company the Commission in its letters of October 8, 1969 and March 25, 1971 suggested the type of evidence claimant might submit in support of the indebtedness of \$26,959.73 reflected in Lamparas' Balance Sheet of October 31, 1960 as due to International Lema Company. This evidence has not been submitted.

International Lema Company has not qualified as a United States national and there is no evidence as to its successor-in-interest in any bankruptcy proceeding. The burden of proof has not been met.

For the above reasons this part of the claim is denied in its entirety.

The Commission notes that in the said October 1960 Balance Sheet there is an item of \$2,090.70 reflecting an indebtedness to claimant. In this regard the Commission has held that debts of an intervened or nationalized Cuban corporation owed to an American claimant constitute losses occurring on the date of intervention or 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. 1966].)



In view of the above the Commission finds that claimant sustained a loss on May 31, 1961 in the amount of \$2,090.70 for the debt owed him by Lamparas.

PERSONAL AND HOUSEHOLD EFFECTS

The loss is asserted as follows:

(1)	1954 Ford, Fairlane, Deluxe	\$ 980.00
(2)	1958 Mercury	2,260.00
(3)	Silver service for 12	870.00
(4)	China, service for 8	540.00
(5)	Furniture & appliances	<u>10,000.00</u>
		\$14,650.00

There is no evidence of record in support of claimant's ownership of a 1954 Ford. Evidence in support of ownership of a 1958 Mercury is negated by business forms reflecting ownership in claimant's wife, who is not a claimant herein.

As to the items consisting of household effects an unsworn list has been submitted that does not reflect year of purchase or acquisition of any item; whether the value asserted is cost or replacement value, and whether depreciation factors were considered.

In the Commission's letter of October 8, 1969 there was enclosed a form of affidavit explaining how this part of the claim might be substantiated. Such evidence was never submitted. Claimant has advised the Commission that the Internal Revenue Service allowed certain of these items but these rulings were never submitted. Claimant has also advised the Commission that he is divorced

from his wife and a property settlement excludes her from any claim. This property settlement has not been submitted.

For the above reasons, as the burden of proof has not been met, this part of the claim is denied.

The Commission concludes that claimant suffered a loss within the meaning of Title V of the Act, in the total amount of \$71,781.33; the sum of \$69,690.63 for his 100% interest in the Cuban corporation, Lamparas and the sum of \$2,090.70 representing the debt of this corporation due claimant.

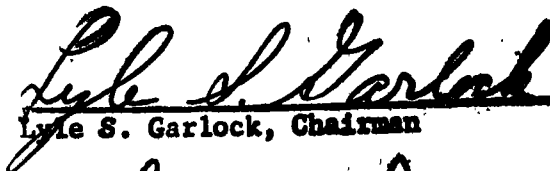
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

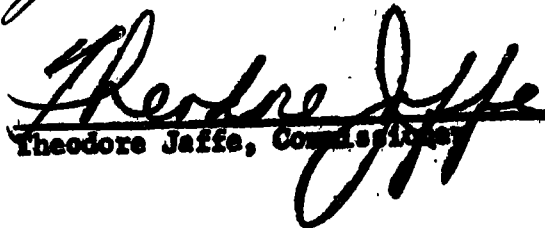
CERTIFICATION OF LOSS

The Commission certifies that STUART E. ROBINSON 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 Seventy-One Thousand Seven Hundred Eighty-One Dollars and Thirty-Three Cents (\$71,781.33) with interest at 6% per annum from May 3, 1961 to the date of settlement.

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

SEP 8 1971

  
Lyle S. Garlock, Chairman

  
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 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).)