

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

IN THE MATTER OF THE CLAIM OF

LESTER M. JAMPOLSKY AND RITA JAMPOLSKY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2653

Decision No. CU-768

AMENDED PROPOSED DECISION

On November 30, 1967, the Commission issued its Proposed Decision in this claim against the Government of Cuba, denying the claim for failure of proof. Claimant 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 LESTER M. JAMPOLSKY AND RITA JAMPOLSKY, and is based upon the asserted loss of \$908.00, 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 LESTER M. JAMPOLSKY has been a national of the United States since birth, and claimant RITA JAMPOLSKY has been a national of the United States at all times pertinent to this claim.

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)]⁷, 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 claimants are, and since prior to October 13, 1960, have been, the owners of 500 shares of common stock of Havana Lithographing. The certificates representing the shares in question are Nos. 24346 thru 24350, inclusive.

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 claimants' interest in the enterprise was taken on that date.

In determining the value of the interest owned by claimants 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 the Claim of Central West Company, FCSC Claim No. CU-3440.)

Accordingly, in the instant claim, the Commission finds that claimants, as aholders 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 the Claim of Listle Corporation, FCSC Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained by the claimants 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 provision are made for settlement thereof.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimants as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that LESTER M. JAMPOLSKY AND RITA JAMPOLSKY 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 Proposed
Decision of the Commission

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: The above listed certificates 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).)

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Act of 1949, as amended

Claim No. CU -2653

Decision No. CU - 768

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 \$908.00, was presented by LESTER M. JAMPOLSKY and RITA JAMPOLSKY, and is based upon the asserted loss of a stock interest in Havana Lithographing Company of Cuba. No documentary evidence has been submitted to establish the nationality of the claimants.

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).)

Claimants offered evidence in support of their claim for the ownership and loss of stock interests in the Havana Lithographing Company of Cuba. However, claimants failed to submit evidence of their United States nationality, as required by Section 502(1)(A) of the International Claims Settlement Act of 1949, as amended. Accordingly, by Commission letters of July 13, 1967 and August 22, 1967, claimant, LESTER M. JAMPOLSKY, was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of September 19, 1967, the Commission made additional suggestions to claimant, LESTER M. JAMPOLSKY, concerning the submission of supporting evidence in this matter. Other than the original stock certificates of the Havana Lithographing Company of Cuba, no evidence in response to this correspondence has been received to date.

On October 12, 1967, claimant, LESTER M. JAMPOLSKY, was invited to submit any evidence available to him within 45 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 existing record. No evidence has since been submitted.

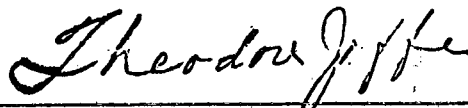
The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary 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

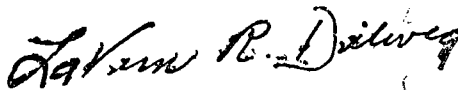
30 NOV 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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