

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

IN THE MATTER OF THE CLAIM OF

NORDA ESSENTIAL OIL & CHEMICAL CO., INC.

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Claim No. CU-2703

Decision No. CU 5963

Steingarten, Wedeen & Weiss  
By Albert A. Wedeen, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by NORDA ESSENTIAL OIL & CHEMICAL CO., INC. in the amount of \$136,291.68 based upon the asserted loss of payment for merchandise shipped to Cuba, for part of which a stock interest was accepted.

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.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

An officer of the claimant corporation has certified that the claimant was organized in New York and that at all pertinent times 100% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant was engaged in selling its products to Cuban purchasers, the products consisting of essential oils, flavors and fragrances used by cosmetic, pharmaceutical, food and beverage industries. They had 23 open accounts, the principal one being that of Laboratorios Gravi, S.A. (hereafter referred to as Gravi).

An official of claimant corporation, based on its books and records, has certified that Gravi was indebted to NORDA for items and amounts, for which NORDA accepted preferred stock, as follows:

\$53,310.90	Debt on December 31, 1957	
<u>5,910.90</u>	Commission deducted	
\$47,400.00	for which NORDA accepted	474 shares
Dividends	for which NORDA accepted	35 shares
\$40,207.93	Debt on December 31, 1958	
	for which NORDA accepted	402 shares
\$ 1,434.28	Interest due for which	
	NORDA accepted	14 shares
\$ 2,800.00	Dividends due for which	
<u>          </u>	NORDA accepted	<u>28 shares</u>
\$91,842.21	Claimed as "cost" of	953 shares

Claimant has also certified losses on open accounts, supported by its books and records, and copies of invoices, reflecting these are 1959 balances, as follows:

Brandeis y Cia Senc.	\$ 457.00
Casal y Gonzales Distribudora	14.73
Kent Beauty	5.57
Mauricio y Alberto Habif Yga	2,787.11
Laboratorio de Productos de Belizz	1,313.35
Laboratorios Gravi S.A.	17,002.29
Levadura Mediane S.A.	777.19
Luis y Cia	840.00
Manufacturer Bella Latine de Cuba S.A.	720.00
Medical Products S.A.	4.70
R. A. Olazarra	1,040.92
Perfumeria Bon Suar S.A.	30.69
Perfumeria Drialys	81.20
Jose Guida	612.50
Dr. Jose A. Prieto	16,134.99
J. R. Rodriguez "Petroleo Russo"	150.00
Rodriguez y Hno	90.00
Seventeen Beauty Products Corp.	1,598.82
Telleria y Cubo	225.94
Tienda Mixta Los Pinos	140.97
Distribudora Van Dick	175.00
M. Bimbelstein	246.50
	<u>\$ 44,449.47</u>

The Commission finds that with respect to the Gravi 1957 and 1958 debts and interest and dividends incident to stock, the claimant accepted 953 shares of preferred stock. The Commission has found that the properties of Gravi were nationalized by the Government of Cuba on June 29, 1961, and that the value of each preferred share was \$100.00. (See Claim of Carmen E. Lluria, Claim No. CU-3075.)

Accordingly, in respect to this part of the claim the Commission finds that claimant was the owner of 953 shares of stock of Gravi prior to June 29, 1961, and that it suffered a loss in the amount of \$95,300.00 within the meaning of Title V of the Act.

With regard to the open accounts, the Commission finds on the basis of the record that these involved shipments during 1959 for which claimant has not received funds or other compensation.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively

precluded transfers of funds, in this and similar cases, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See Claim of The Schwarzenbach Huber Company, Claim No. CU-0019, 25 FCSC Semi-ann. Rep. 58 [July-Dec. 1966].)

Accordingly, the Commission finds that claimant's property in the 22 open accounts in the amount of \$44,449.47 was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the loss occurred 60 days after the passage of Law 568, or on November 29, 1959.

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>
November 29, 1959	\$44,449.47
June 29, 1961	<u>95,300.00</u>
	\$139,749.47


It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof. (See Claim of Eileen M. Smith, Claim No. CU-3038.)

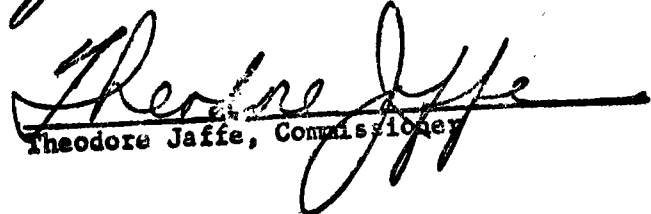
CERTIFICATION OF LOSS

The Commission certifies that NORDA ESSENTIAL OIL & CHEMICAL CO., INC. 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 Hundred Thirty-nine Thousand Seven Hundred Forty-nine Dollars and Forty-seven Cents (\$139,749.47) 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 Proposed  
Decision of the Commission

NOV 17 1970

  
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, 32 Fed. Reg. 412-13 (1967).)