

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

IN THE MATTER OF THE CLAIM OF

LEON LEMBERG
and
NORMA LEMBERG

Claim No. CU-2740

Decision No. CU -6146

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 was presented by LEON LEMBERG in the amount of \$185,557.33 based on the asserted ownership and loss of stock interests in Cuba. Inasmuch as pursuant to the community property law of Cuba, NORMA LEMBERG has an interest in the property subject of the claim, she is added as claimant herein. Both 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 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 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.

Distribuidora de Productos Electricos Disproesa, S.A.

Claimant LEON LEMBERG submitted stock certificate No. 3 for 480 shares of Disproesa, issued in 1958, each for \$250 par value. Disproesa imported electrical appliances, such as radios, air conditioners and the like, and resold to retailers. The record further establishes that the paid-in capital of this company was \$125,000, and the said 480 shares represent 96 per cent thereof.

Evidence of record establishes that Disproesa was nationalized by the Government of Cuba on October 24, 1960, by Resolution 3.

Claimant LEON LEMBERG submitted a balance sheet for Disproesa for June 30, 1960 which reflects the following:

ASSETS		LIABILITIES	
Cash	\$ 10,445.48	Accounts Payable	\$ 36,899.68
Accounts Receivable	64,847.65		
Inventory	54,595.79		
Furniture and equipment (dep.)	5,204.88	Capital	\$125,000.00
Deposits, Investments, Improvements	6,138.34	Deficit	<u>20,667.54</u>
			104,332.46
	<u>\$141,232.14</u>		<u>\$141,232.14</u>

Based on the foregoing, the Commission finds that on the date of loss the net worth of Disproesa was \$104,332.46 and concludes that claimants suffered a loss of \$100,159.16 or \$50,079.58 each in this connection.

Distribuidora de Pinar del Rio Electro Max, S.A.

The evidence of record indicates and the Commission finds that claimants owned a 50 per cent interest in Electro Max, incorporated in 1959, which sold electrical appliances on the installment plan, operating from a retail store in the city of Pinar del Rio.

Evidence of record establishes that Electro Max was nationalized by the Government of Cuba on October 24, 1960, the same date Disproesa was taken.

Claimant LEON LEMBERG submitted a balance sheet for Electro Max, for July 31, 1960, which reflects the following:

ASSETS		LIABILITIES	
Cash	\$(1,661.57)	Accounts Payable	\$39,981.76
Accounts Receivable	41,276.89	Taxes and Commissions	85.36
Inventory	23,941.45		
Prepaid Insurance	155.31	Capital	\$ 6,000.00
Fixed Assets	6,472.63	Surplus	<u>14,856.34</u>
	<u>70,182.71</u>		<u>20,856.34</u>
Less Reserves	<u>9,259.25</u>		
	\$60,923.46		\$60,923.46

Based on this record, the Commission finds that on the date of loss, the net worth of Electro Max was \$20,856, the claimants' 50 per cent

interest had a value of \$10,428.17 and they suffered losses respectively of \$5,214.09 and \$5,214.08.

Textilera Tricoseda, S.A.

Based on all the evidence of record in this and several other claims, the Commission finds that claimants owned equal interests in one-third of the capital stock of Textilera Tricoseda, S.A.

In our decision in the Claim of Meyer Fuchsberg, et ux., Claim No. CU-3348 which we incorporate herein by reference, we held that the properties of Tricoseda were nationalized by the Government of Cuba on December 6, 1961, pursuant to its Law 989 of that date. We need not again detail here the reasons or method used in determining the net worth of Tricoseda as \$210,000.

Accordingly, the Commission concludes that these claimants each sustained a loss of \$35,000 in connection with Tricoseda.

Recapitulation

Claimants' losses within the scope of Title V of the Act are summarized:

	<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
LEON LEMBERG	Disproesa	October 24, 1960	\$50,079.58
	Electro Max	October 24, 1960	5,214.09
	Tricoseda	December 6, 1961	<u>35,000.00</u>
			\$90,293.67
NORMA LEMBERG	Disproesa	October 24, 1960	\$50,079.58
	Electro Max	October 24, 1960	5,214.08
	Tricoseda	December 6, 1961	<u>35,000.00</u>
			\$90,293.66

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>
LEON LEMBERG	October 24, 1960	\$55,293.67
	December 6, 1961	35,000.00
NORMA LEMBERG	October 24, 1960	\$55,293.66
	December 6, 1961	35,000.00

CERTIFICATIONS OF LOSS

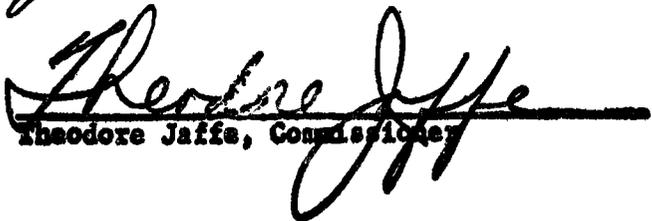
The Commission certifies that LEON LEMBERG suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Ninety Thousand Two Hundred Ninety-Three Dollars and Sixty-Seven Cents (\$90,293.67) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that NORMA LEMBERG 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 Ninety Thousand Two Hundred Ninety-Three Dollars and Sixty-Six Cents (\$90,293.66) 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

APR 7 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: These claimants may be the subject of another certification of loss in CU-2995 involving asserted losses not covered under this Proposed Decision.

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).)