

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

IN THE MATTER OF THE CLAIM OF

LEIB MERKIN, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3111

Decision No. CU 4238

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 LEIB MERKIN, INC. in the amount of \$25,025.00 based upon the asserted loss resulting from the intervention of the Cia. Antillana de Acero, S.A. by the Government of Cuba.

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) of the Act defines the term "national of the United States" as "(B) 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 the State of New York and that at all times between April 5, 1957, and presentation of this claim on May 1, 1969, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The record shows that 94% of claimant's stock outstanding is owned by nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

In our decision, entitled the Claim of Independence Foundation (Claim No. CU-2152), which we incorporate herein by reference, we held that the Cia. Antillana de Arcero, S.A. was intervened by the Government of Cuba on March 25, 1960 under Resolution No. 1 of the Cuban Ministry of Finance; and that this type of claim is within the purview of Section 503(a) of the Act under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value of \$100.00 per share of stock.

On the basis of evidence of record in the instant case, the Commission finds that the claimant, LEIB MERKIN, INC., comes within the terms of the Independence Foundation decision; that it was a national of the United States at all times relevant to this claim; that it has been the owner of two hundred fifty (250) shares of stock

in the Cia. Antillana de Acero, S.A. since prior to March 25, 1960; and that it sustained a loss in the total amount of \$25,000.00 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from March 25, 1960, the date when the claim arose, to the date on which provisions are made for the settlement thereof. (See Independence Foundation, supra.)

CERTIFICATION OF LOSS

The Commission certifies that LEIB MERKIN, INC., sustained 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 Twenty-Five Thousand Dollars (\$25,000.00) with interest at 6% per annum from March 25, 1960 to the date of settlement.

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

NOV 26 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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 for 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. 513.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)