

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

IN THE MATTER OF THE CLAIM OF

ESTELA MARIA ROBERTS
ALEXANDER M. ROBERTS, JR.
ALEXANDER M. ROBERTS

Claim No. CU-0511
Claim No. ~~CU~~0512
Claim No. CU-0515

Decision No. ~~CU~~-6254

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimants:

William E. Henson, Jr., Esq.

Appeal and objections from a Proposed Decision dated and entered July 7, 1971.
Oral hearing requested.

Oral argument September 22, 1971 by William E. Henson, Jr., Esq.

FINAL DECISION

The Commission issued a Proposed Decision in these claims on July 7, 1971, certifying losses within the scope of Title V of the International Claims Settlement Act of 1949, as amended, resulting from actions of the Government of Cuba, in the amount of \$1,829,173.66 in favor of ALEXANDER M. ROBERTS, and in the amount of \$514,771.68 each in favor of ESTELA MARIA ROBERTS and ALEXANDER M. ROBERTS, JR.

Claimants objected to the Proposed Decision and requested an oral hearing which was held on September 22, 1971.

In their objections claimants stated that a portion of the claim relating to 4,295 shares of stock of Banco del Caribe S.A. should not have been denied for lack of evidence as to the value of the shares, because documentation in the file discloses that in 1954 a Mexican bank offered the stock at \$160.00 per share and that ALEXANDER M. ROBERTS (Sr.) accepted the offer and paid the requested price.

Claimants further objected to the denial of another portion of the claim relating to shares of stock of Compania Constructora Naroca S.A. The denial was based on the fact that the evidence of record disclosed that the shares were worthless, but claimants contended that substantial assets were not considered in the evaluation of the stock. These objections were withdrawn, however.

At the hearing, counsel for claimant presented argument and submitted additional evidence to show that the Banco del Caribe S.A. was a flourishing business concern during the 1950's.

Upon examination of the entire record, including the documentation relating to the claim based upon the stock of Banco del Caribe S.A. the Commission finds that in 1954 ALEXANDER M. ROBERTS (Sr.) purchased 2,985 shares of stock of that bank from the Banco del Ahorro Nacional S.A. of Mexico City for a stated price of \$160.00, but that he paid in cash only \$117,600.00 while \$360,000.00 was paid in long term bonds issued by the Banco del Caribe S.A. and that claimants in their submissions to the Commission admitted that at the time of the intervention of the bank, October 13, 1960, the stock had a value of \$100.00 per share.

The Commission concludes on the basis of the entire record that the value of the stock at the time of taking was \$100.00 per share, and that claimant ALEXANDER M. ROBERTS (Sr.) suffered a loss in the amount of \$429,500.00 in addition to the loss already determined in the Proposed Decision. Interest of 6% per annum on the sum of \$429,500.00 is to be added from October 13, 1960, the date of the bank's intervention.

Accordingly, the Certification of Loss for ALEXANDER M. ROBERTS (Sr.) in the Proposed Decision is set aside, the following Certification is entered, and in all other respects the Proposed Decision is affirmed.


CU-0511
CU-0512
CU-0515

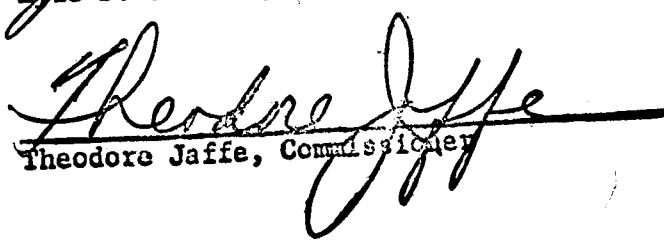
CERTIFICATION OF LOSS

The Commission certifies that ALEXANDER M. ROBERTS (Sr.) 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 Two Million Two Hundred Fifty-Eight Thousand Six Hundred Seventy-Three Dollars and Sixty-Six Cents (\$2,258,673.66) 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 Final
Decision of the Commission

SEP 28 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

CU-0511
CU-0512
CU-0515

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

IN THE MATTER OF THE CLAIM OF

ESTELA MARIA ROBERTS
ALEXANDER M. ROBERTS, JR.
ALEXANDER M. ROBERTS

Claim No. CU-0511
Claim No. CU-0512
Claim No. CU-0515

Decision No. CU 6254

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

William E. Henson, Jr., Esq.

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amounts of \$462,052.17, \$462,052.17 and \$2,843,694.20, respectively, were presented by ESTELA MARIA ROBERTS, ALEXANDER M. ROBERTS, JR. and ALEXANDER M. ROBERTS, based upon the asserted loss of real and personal property, shares of stock and sums of money loaned. Claimants have been nationals of the United States since birth.

These claims have been filed by the individual claimants separately, but because of the inherited interests, the three claims are discussed in this decision in the following order: (I) Claim based upon the loss of real property, furniture and household goods of ALEXANDER M. ROBERTS (Sr.), and (II) Claims of the three claimants based upon the loss of shares of stock and sums of money loaned.

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.

(I) Claim of ALEXANDER M. ROBERTS (Sr.) for
loss of real and personal property

Claimant states that he owned real property in the following places:

- (1) 167 Neptuno, Havana
- (2) 305 Industria, Havana
- (3) 404 Calle 26, Vedado, Havana
- (4) 156 Paseo de Marti, Havana
- (5) 23d and K Streets, Vedado, Havana
- (6) 3425 Avenida 49-A, Reparto Kohly, Marianao
- (7) Lots 22, 23, and 24 Reparto Kohly, Marianao
- (8) Beach house on Tarara Beach, near Havana
- (9) Building lots on Tarara Beach
- (10) Building lots on Rancho Boyeros Highway, Havana

He further states that he owned furniture and personal effects at his residence at No. 3425 Avenida 49-A, Reparto Kohly.

In support of his claim, claimant submitted, among other things, a copy of a written statement which his son, Eugene Saunders Roberts, delivered to the American Embassy in Havana on October 7, 1960, and in which the properties were described in some detail; copies of the deeds relating to the acquisition of the real property; listings of furniture and personal effects; affidavits and statements of family members and other persons acquainted with claimant's business and property in Cuba; and photographs of the residence on Avenida 49-A.

Based upon the evidence of record, the Commission finds that all the real property described in this Section was subject to the Urban Reform Law, published by the Government of Cuba in the Official Gazette of October 14, 1960. Accordingly, the Commission concludes that claimant's real property holdings were taken by the Cuban Government on October 14, 1960.

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.

(1) 167 Neptuno, Havana

Claimant purchased this property in 1937, while he was married to his first wife, Maria Gutierrez Sanchez, from whom he was divorced in 1940. Claimant had erected on the premises an office and apartment building, containing a basement, four floors and a penthouse. The building, covering the entire lot of 91.20 square meters, was completed in 1940.

The Commission finds, on the basis of the evidence presented by the claimant and other evidence of record, that this property, free of encumbrances, constructed of reinforced concrete with brick walls and a concrete roof, at the time of taking, had a value, after depreciation, of \$125,000.00.

According to the community property law of Cuba the properties acquired by one or both spouses during the marriage from funds of the marriage partnership, or by the industry, salary or work of either or both spouses, and the fruits thereof, belong in equal parts to both spouses. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.)

The property described under this heading, as stated above, was acquired by claimant ALEXANDER M. ROBERTS (Sr.) prior to his divorce from his first wife, and he retained full ownership after the divorce. The Commission therefore finds that under the laws of Cuba the realty at 167 Neptuno ceased

to be in community property with claimant's first wife and was not in community property with his second wife, Estela Sonville, to whom he was married on September 25, 1941.

(2) 305 Industria, Havana

Claimant purchased this property in 1946. It was adjoining to the property described above under (1). Claimant constructed on the lot, measuring 279.63 square meters, a new building which was physically attached to the building bearing number 167 Neptuno.

The record shows that claimant paid \$65,000 for the lot and an old building, and based upon the evidence before it, the Commission finds that the property, at the time of taking, free of encumbrances, and after depreciation, had a value of \$200,000.00.

Under the community property law of Cuba claimant's wife, Estela Sonville Roberts, acquired a one-half interest in this property, her interest thus being worth \$100,000.00. The record shows that Estela Sonville Roberts died intestate on September 5, 1959. Under the laws of intestacy of Cuba her two surviving children ESTELA MARIA ROBERTS and ALEXANDER M. ROBERTS, JR., the claimants herein, inherited each a 1/3 part of her estate, and a one-half interest each in the remainder of the third part of her estate in which ALEXANDER M. ROBERTS (Sr.) inherited a life estate. The value of the life estate and remainder interest must be determined. On October 14, 1960, at the time of the loss of the property, ALEXANDER M. ROBERTS (Sr.) was 65 years old.

The Commission has adopted as a basis for valuation for life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-1941, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031-7.) According to that method of valuation, a life estate of a person 65 years old is valued at .33420 of

the entire estate. As a result, the value of the life estate in the instant case was \$33,333.33 (one-third of \$100,000.00) times .33420. Consequently, the losses suffered by the claimants in connection with this property are:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$100,000.00
Life Estate in 1/6	<u>11,140.00</u>
	\$111,140.00
ESTELA M. ROBERTS: 1/6	\$ 33,333.33
1/2 Remainder in 1/6	<u>11,096.67</u>
	\$ 44,430.00
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 33,333.33
1/2 Remainder in 1/6	<u>11,096.67</u>
	\$ 44,430.00

(3) 404 Calle 26, Vedado, Havana

Claimant ALEXANDER M. ROBERTS (Sr.) purchased this property in 1942. It consisted of a lot of approximately 223 square meters with a four-story house erected thereon. Each story contained a three-bedroom apartment. A garage was located in the basement. The evidence presented by the claimants, including statements made by family members before the American Embassy in Havana, show, and the Commission finds that at the time of taking this property was worth \$30,000.00.

Claimant's wife had a one-half interest in this property valued at \$15,000.00. According to the above-described methods of computing the respective interests of the claimants, the Commission finds that the losses sustained by the claimants were as follows:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$15,000.00
Life Estate in 1/6	<u>1,671.00</u>
	\$16,671.00
ESTELA M. ROBERTS: 1/6	\$ 5,000.00
1/2 Remainder in 1/6	<u>1,664.50</u>
	\$ 6,664.50
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 5,000.00
1/2 Remainder in 1/6	<u>1,664.50</u>
	\$ 6,664.50

(4) 156 Paseo de Marti, Havana

Claimant ALEXANDER M. ROBERTS (Sr.) acquired a house at No. 156 Paseo de Marti (formerly Prado) in part in 1956, and in part in 1957. The property

consisted of a building on a lot measuring approximately 287 square meters. The property was used as an office building and its purchase price was \$40,000.00. Based upon the evidence of record, the Commission finds that at the time of taking, this property had a value of \$43,000.00.

Claimant's wife's one-half interest in the property thus had a value of \$21,500.00. Pursuant to the previously-described methods of calculation, the Commission finds that the losses of the claimants were as follows:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$21,500.00
Life Estate in 1/6	<u>2,395.10</u>
	\$23,895.10
ESTELA M. ROBERTS: 1/6	\$ 7,166.67
1/2 Remainder in 1/6	<u>2,385.78</u>
	\$ 9,552.45
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 7,166.67
1/2 Remainder in 1/6	<u>2,385.78</u>
	\$ 9,552.45

(5) 23rd and K Streets, Vedado, Havana

Claimant ALEXANDER M. ROBERTS (Sr.) acquired this property in 1952. It consisted of a land parcel measuring 2,640.82 square meters, partly improved with temporary structures used for industrial purposes, garages and the like. It was located in the business section of the suburb of Vedado in the City of Havana, and had great potential value for the construction of large apartment buildings. The record shows that the land was purchased for \$258,000, that it was free of encumbrances, and the Commission finds that at the time of taking its value was \$291,000.00.

Claimant's wife had a one-half interest in the property valued at \$145,500.00. According to the above-described methods of calculation, the Commission finds that the claimants suffered the following losses:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$145,500.00
Life Estate in 1/6	<u>16,208.70</u>
	\$161,708.70
ESTELA M. ROBERTS: 1/6	\$ 48,500.00
1/2 Remainder in 1/6	<u>16,145.65</u>
	\$ 64,645.65
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 48,500.00
1/2 Remainder in 1/6	<u>16,145.65</u>
	\$ 64,645.65

CU-0511, CU-0512, CU-0515

(6) 3425 Avenida 49-A, Reparto Kohly, Marianao

Claimant ALEXANDER M. ROBERTS (Sr.) was the owner of lots Nos. 10,11,12 and 13 situated in the subdivision known as Reparto Kohly, Municipality of Marianao, a residential suburb of Havana. He acquired the aforesaid lots as follows:

Lot No. 10, 600 square meters, on December 19, 1950:	\$ 6,000.00
Lot No. 11, 505.65 square meters, on May 4, 1946:	9,000.00
Lot No. 12, 411.68 square meters, on February 15, 1946:	7,000.00
Lot No. 13, 1,071.13 square meters, on February 15, 1946:	22,000.00

In 1947 claimant constructed on lots Nos. 12 and 13 a luxurious residence, consisting of a three-story house with a tower on the fourth floor, and two garages in the basement. Based upon the evidence of record, including statements made by family members before the American Embassy in Havana, the Commission finds the entire property (not including personalty therein) at the time of taking, had a value of \$123,000.00.

Claimant's wife had an interest of \$61,500 in this property. Using the above methods of calculation, the Commission finds that claimants' losses were as follows:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$61,500.00
Life Estate in 1/6	<u>6,851.10</u>
	\$68,351.10
ESTELA M. ROBERTS: 1/6	\$20,500.00
1/2 Remainder in 1/6	<u>6,824.45</u>
	\$27,324.45
ALEXANDER M. ROBERTS, JR.: 1/6	\$20,500.00
1/2 Remainder in 1/6	<u>6,824.45</u>
	\$27,324.45

(7) Building lots 22,23 and 24 Reparto Kohly, Marianao

Claimant ALEXANDER M. ROBERTS (Sr.) acquired, in 1954, building lots 22 and 23, and part of lot 24 in the Reparto Kohly subdivision, Municipality of Marianao, facing Bruselas and Central Avenues, measuring 1,564.92 square meters. Subsequently 450 square meters of these lots were sold; therefore at the time of taking the lots had an aggregate area of 1,114.92 square meters. Based upon the evidence presented, the Commission finds that the lots at the time of taking were worth \$11,343.00.

Claimant's wife had a one-half interest therein valued at \$5,671.50. Adopting the previously-described methods of calculation, the Commission finds that claimants' losses were as follows:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$ 5,671.50
Life Estate in 1/6	<u>631.80</u>
	\$ 6,303.30
ESTELA M. ROBERTS: 1/6	\$ 1,890.50
1/2 Remainder in 1/6	<u>629.35</u>
	\$ 2,519.85
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 1,890.50
1/2 Remainder in 1/6	<u>629.35</u>
	\$ 2,519.85

(8) Beach house, Tarara

Claimant ALEXANDER M. ROBERTS (Sr.) was the owner of a two-story modern house of masonry construction with concrete roofs, tile floors, living and dining room, 5 bedrooms, 3 bathrooms, kitchen, servants' quarters and a garage, built on a lot measuring 786.90 square meters, located on Tarara Beach, Municipality of Guanabacoa. Claimant purchased the unimproved land in 1954 for \$3,077.70 and constructed a house for \$40,000, according to his own estimates. The property was free of encumbrances, and the Commission finds, based upon the record, that the property, at the time of taking had a value of \$45,000.00.

Claimant's wife had a one-half interest in this property, valued at \$22,500.00. Using the method of calculation as above, the Commission finds that claimants' losses were as follows:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$22,500.00
Life Estate in 1/6	<u>2,506.50</u>
	\$25,006.50
ESTELA M. ROBERTS: 1/6	\$ 7,500.00
1/2 Remainder in 1/6	<u>2,496.75</u>
	\$ 9,996.75
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 7,500.00
1/2 Remainder in 1/6	<u>2,496.75</u>
	\$ 9,996.75

(9) Tarara Building Lots

In 1954 claimant ALEXANDER M. ROBERTS (Sr.) purchased two building lots numbered parcel No. 1 of Lot 2 and parcel No. 2 of Lot 2 on Tarara Beach, in

CU-0511, CU-0512, CU-0515

the vicinity of his beach house. The area of the parcels was 615 and 450 square meters, respectively. The Commission finds that at the time of loss these building lots had an aggregate value of \$5,000.00.

Claimant's wife had a one-half interest therein valued at \$2,500.00. Following the above-described methods of calculation, the Commission finds that at the time of loss claimants' losses were as follows:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$ 2,500.00
Life Estate in 1/6	<u>278.50</u>
	\$ 2,778.50
ESTELA M. ROBERTS: 1/6	\$ 833.33
1/2 Remainder in 1/6	<u>277.42</u>
	\$ 1,110.75
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 833.33
1/2 Remainder in 1/6	<u>277.42</u>
	\$ 1,110.75

(10) Building Lots, Rancho Boyeros, Havana

In 1955 claimant ALEXANDER M. ROBERTS (Sr.) purchased two building lots numbered 1-A and 1-B situated on the highway of Rancho Boyeros, in the subdivision of Puentes Grandes, Municipality of Havana, measuring 1,484.95 and 1,769.12 square meters for \$20,649.40 and \$24,747.00, respectively. The Commission finds that at the time of loss the two building lots had a value of \$48,000.00.

Claimant's wife had a one-half interest in this property valued at \$24,000.00. Adopting the methods of calculation described above, the losses of the claimants were as follows:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$24,000.00
Life Estate in 1/6	<u>2,673.60</u>
	\$26,673.60
ESTELA M. ROBERTS: 1/6	\$ 8,000.00
1/2 Remainder in 1/6	<u>2,663.20</u>
	\$10,663.20
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 8,000.00
1/2 Remainder in 1/6	<u>2,663.20</u>
	\$10,663.20

(11) Personal Property

Claimant, ALEXANDER M. ROBERTS (Sr.) owned at the residence, furniture, appliances, equipment, silverware, linens, clothing and other personal effects, which were confiscated by the Government of Cuba. The

CU-0511, CU-0512, CU-0515

Commission finds that this personal property, formerly jointly owned by ALEXANDER M. ROBERTS (Sr.) and his wife Estela, was subject to Law No. 989, published by the Government of Cuba in the Official Gazette on December 6, 1961, which confiscated all the goods, chattels, rights, shares of stock, bonds and other property of persons who left Cuba. Claimant left Cuba in December 1960, and the Commission finds that the personal property located in his residence was taken on December 6, 1961.

The Commission further finds, on the basis of the entire evidence of record, that this personal property was worth, after allowance for depreciation, \$30,000.00, of which \$15,000 represented the interest of claimant's wife.

Adopting the same criteria as in the portions of the claim discussed above under (2) through (10), the Commission finds claimants suffered the following losses:

ALEXANDER M. ROBERTS (Sr.): 1/2	\$15,000.00
Life Estate in 1/6	<u>1,671.00</u>
	\$16,671.00
ESTELA M. ROBERTS: 1/6	\$ 5,000.00
1/2 Remainder in 1/6	<u>1,664.50</u>
	\$ 6,664.50
ALEXANDER M. ROBERTS, JR.: 1/6	\$ 5,000.00
1/2 Remainder in 1/6	<u>1,664.50</u>
	\$ 6,664.50

(II) Claims of ESTELA M. ROBERTS, ALEXANDER M. ROBERTS, JR. and ALEXANDER M. ROBERTS (Sr.) based upon shares of stock and debts

Claimant ALEXANDER M. ROBERTS (Sr.) states and the Commission finds that he owned the following shares of stock:

- 245 shares of Roberts Tobacco Company
- 4,295 shares of Banco de Caribe S.A.
- 326 shares of Compania Inmobiliaria Taino S.A.
- 34 shares of Publicidad Celex S.A.
- 11 shares of Compania Anunciadora Vallador S.A.
- 335 shares of Central Nela S.A.
- 420 shares of A.S.C. Corporacion
- 200 shares of Cia. Agricola Naroca S.A.
- 90 shares of Cia. Comercial Mayajigua S.A.
- 75 shares of Cia. Ganadera Naroca S.A.
- 1,500 shares of Cia. Constructora Naroca S.A.

The record shows that ALEXANDER M. ROBERTS (Sr.) owned this stock as a result of a family partition, and not in community property.

Claimants ESTELA M. ROBERTS and ALEXANDER M. ROBERTS, JR., state that they each inherited from the mother, Estela Sonville Roberts, who died intestate on September 5, 1959, the following shares of stock:

122-1/2 shares of Roberts Tobacco Company
48-1/2 shares of Compania Inmobiliaria Taino S.A.
107-1/2 shares of Central Nela S.A.
135 shares of A.S.C. Corporacion
44-1/2 shares of Cia. Comercial Mayajigua S.A.
450 shares of Cia. Constructora Naroca S.A.

On the basis of the record, the Commission finds that the decedent Estela Maria Sonville Roberts, owned the following securities:

245 shares of Roberts Tobacco Company
97 shares of Compania Inmobiliaria Taino S.A.
215 shares of Central Nela S.A.
270 shares of A.S.C. Corporacion
89 shares of Compania Comercial Mayajigua S.A., and
900 shares of Compania Constructora Naroca S.A.

The record shows that Estela Sonville Roberts acquired these shares as a result of a family partition and that they did not constitute community property. Accordingly, at the time of her death, under the laws of intestacy of Cuba, as previously stated, the two surviving children of Estela Sonville Roberts inherited each a one-third part of the shares and a one-half interest in the remainder of a one-third part, in which ALEXANDER M. ROBERTS (Sr.) inherited a life estate.

Since all the above-named corporations were organized under the laws of Cuba, they do not qualify as corporate "nationals of the United States" defined under 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 percent 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).

The record shows that the above corporations were intervened, nationalized or taken by the Government of Cuba on the following dates:

CU-0511, CU-0512, CU-0515

Cia. Constructora Naroca: October 15, 1959

Banco del Caribe S.A.: October 13, 1960

Central Nela S.A., and A.S.C. Corporacion, Cia. Comercial Mayajigua, Cia. Agricola Naroca S.A. and Cia. Ganadera Naroca S.A. were nationalized by Resolution No. 5 published in the Official Gazette on August 19, 1960;

Cia. Inmobiliaria Taino S.A. lost its assets by virtue of the Urban Reform Law published in the Official Gazette on October 14, 1960;

Roberts Tobacco Company: October 5, 1961;

The record does not indicate the dates of taking of Publicidad Celex S.A. and of Cia. Anunciadora Vallador S.A.

The value of the shares of stock and claimants' interests therein are discussed under separate headings below.

(12) Roberts Tobacco Company

The capital stock of this corporation was \$500,000 divided in 1,000 shares of \$500 each. The principal business activity consisted in the importation to Cuba of American cigarettes and other smoker's articles, as well as chewing gum and razor blades. No balance sheets nor any other financial statements of the company have been submitted to the Commission. ALEXANDER M. ROBERTS (Sr.) and son, who managed the company state that the company had sales in excess of \$6,000,000 and a net profit before taxes of \$250,000 per year. In the absence of other specific information concerning the assets and liabilities of the company, the Commission holds, on the basis of the record including claims of American suppliers of the Roberts Tobacco Company, that at the time of taking the net worth of the corporation was \$500,000 and the value of each share \$500. Accordingly, the value of the 245 shares held by ALEXANDER M. ROBERTS (Sr.) was \$122,500.00, and the value of the 245 shares formerly held by Estela Sonville Roberts was equally \$122,500.00.

(13) Compania Inmobiliaria Taino S.A.

The record shows that the capital stock of this company was \$265,000 divided in 530 shares of \$500 each. The assets of this company consisted of three large building lots improved with two office buildings located at the intersection of Calle 23 and Calle J, in the Vedado section of Havana having

a value of \$260,000. Prior to their taking, the office buildings were rented to Compania Constructora Naroca S.A. It appears that the company had no liabilities. The Commission holds, on the basis of the record before it, that at the time of taking the net worth of the company was \$260,000 and the value of each share \$490.57. Accordingly, the value of the 326 shares held by ALEXANDER M. ROBERTS (Sr.) was \$159,925.82, and the value of 97 shares formerly held by Estela Sonville Roberts was \$47,585.29.

(14) Central Nela S.A.

The record shows that at the time of nationalization this corporation had a paid-up capital stock of \$1,143,000 divided in 1,143 shares of \$1,000 each. The company owned a sugar mill with storage facilities at Mayajigua, Las Villas Province, and sugar cane land of 12,000 acres. The average production of sugar during the last three years before nationalization was 115,000 bags of 250 Spanish pounds (253-1/2 American pounds) each. In the absence of any financial statement concerning the net worth of the company, the Commission finds that the corporation's assets, consisting of land, improvements, machinery, and other equipment had a value of \$1,340,000.00, the declared liabilities to be deducted were \$539,780.00 resulting in a net worth of \$800,220.00. Thus the value of one share was \$700.10. Accordingly, the value of the 335 shares held by ALEXANDER M. ROBERTS (Sr.) was \$234,533.50, and the value of the 215 shares formerly held by Estela Sonville Roberts was \$150,521.50.

(15) Compania Comercial Mayajigua S.A.

The company had a capital stock of \$25,000 divided in 500 shares of \$50.00 each. The record reflects that certified public accountants, having checked the inventory, assets, liabilities, etc., found that this company, at the time of taking, had a net worth of \$53,686.93 and that the value of one share was \$107.37. Accordingly, the value of the 90 shares held by ALEXANDER M. ROBERTS (Sr.) was \$9,663.30, and the value of the 89 shares formerly held by Maria Sonville Roberts was \$9,555.93.

(16) Compania Ganadera Naroca S.A.

This company had a capital stock of \$15,000 divided in 150 shares of \$100 each. At the time of nationalization its assets consisted principally of 383 head of cattle. It appears that the company had no liabilities. The Commission finds that the net worth of the corporation at the time of taking was \$35,000, and that the 75 shares (50 percent) owned by ALEXANDER M. ROBERTS (Sr.) were worth \$17,500.00.

Compania Constructora Naroca S.A.

This company had a capital stock of \$500,000 divided in 5,000 shares of \$100 each. The record shows that at the time of taking, the assets of the company, consisting of construction equipment, a repair shop, and a warehouse, had a value of \$725,000, while the company was indebted to ALEXANDER M. ROBERTS (Sr.) in the amount of \$833,308.68 plus interest. In the absence of any further information regarding the value of the company, the Commission finds that the known liabilities of the corporation exceeded the value of the assets, and that the shares of stock were from an accounting view without value. Accordingly, the portion of the claim relating to these shares of stock is denied.

With respect to the claim relating to the shares of stock of Banco del Caribe S.A., Cia Agricola Naroca S.A., A.S.C. Corporacion, Publicidad Celex S.A. and Cia. Anunciadora Vallador S.A. no information has been furnished concerning the value of the assets and the extent of the liabilities of these companies.

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).)

The Commission finds that claimants have failed to meet the burden of proof with respect to the property owned by Banco del Caribe S.A., Cia Agricola Naroca S.A., A.S.C. Corporacion, Publicidad Celex S.A. and Cia. Anunciadora Vallador S.A., and the portions of the claim relating to the shares of stock of these companies are therefore denied.

CU-0511, CU-0512, CU-0515

Debt Claims

The record shows that Compania Constructora Naroca S.A., (17) was indebted to ALEXANDER M. ROBERTS (Sr.) in the amount of \$416,654.34 and to Estela Sonville Roberts, his wife, also in the amount of \$416,654.34.

The record further shows that Central Nela S.A. (18) was indebted in 1960 solely to ALEXANDER M. ROBERTS (Sr.) in the amount of \$199,780.00.

As previously stated, Cia. Constructora Naroca S.A. was nationalized on October 15, 1959 and Central Nela S.A. was nationalized on August 19, 1960. Under Section 502(3) of the Act debts owed by nationalized enterprises not qualifying as United States nationals, are property within the meaning of the statute. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].) Accordingly, claimant ALEXANDER M. ROBERTS (Sr.) has a valid claim for the loss of \$616,434.34, and the heirs of the now deceased Estela Sonville Roberts have a valid claim for the loss of \$416,654.34.

In adopting the method of allocation of losses to the heirs of Estela Sonville Roberts as described in part (I) of this decision, it is noted that ALEXANDER M. ROBERTS (Sr.) at the time of nationalization of the Cia. Constructora Naroca S.A. was 64 years old, at the time of nationalization of Central Nela S.A., Cia. Inmobiliaria Taino S.A. and Cia. Comercial Mayajigua S.A. 65 years of age, and at the time of the taking of Roberts Tobacco Company 66 years of age. According to the previously recited mortality tables the life estate of a person 64 years old is valued at .34663, of a 65 year old person at .33420, and of a 66 year old person .32186 of the entire estate.

The Commission therefore finds, considering the aforesaid valuation criteria, that claimants suffered the following losses with respect to the inheritance from Estela Sonville Roberts of shares of stock and a debt claim:

CU-0511, CU-0512, CU-0515

<u>ITEM</u>	<u>ALEXANDER M. ROBERTS (Sr.)</u>	<u>ESTELA M. ROBERTS</u>	<u>ALEXANDER M. ROBERTS, JR.</u>
Roberts Tobacco Co.	\$13,142.62	\$ 54,678.69	\$ 54,678.69
Cia. Inm. Taino	5,301.00	21,142.14	21,142.14
Central Nela, S.A.	16,768.10	66,876.70	66,876.70
Cia. Com. Mayajigua	1,064.55	4,245.69	4,245.69
Constructora Naroca Debt	<u>48,141.63</u>	<u>184,256.36</u>	<u>184,256.36</u>
	\$84,417.90	\$331,199.58	\$331,199.58

Recapitulation

Summarizing, the claimants suffered the following losses based upon their individually owned and inherited interests in real and personal property, securities and loans:

<u>ITEM AND DATE OF LOSS</u>	<u>ALEXANDER M. ROBERTS (Sr.)</u>	<u>ESTELA MARIA ROBERTS</u>	<u>ALEXANDER M. ROBERTS, JR.</u>
(1) 167 Neptuno Oct. 14, 1960	\$125,000.00	--	--
(2) 305 Industria Oct. 14, 1960	111,140.00	\$ 44,430.00	\$ 44,430.00
(3) 404 Calle 26 Oct. 14, 1960	16,671.00	6,664.50	6,664.50
(4) 156 Prado Oct. 14, 1960	23,895.10	9,552.45	9,552.45
(5) 23rd & K Oct. 14, 1960	161,708.70	64,645.65	64,645.65
(6) 3425 Ave. 49-A Oct. 14, 1960	68,351.10	27,324.45	27,324.45
(7) Lots 22-24 Oct. 14, 1960	6,303.30	2,519.85	2,519.85
(8) Beach house Oct. 14, 1960	25,006.50	9,996.75	9,996.75
(9) Beach lots Oct. 14, 1960	2,778.50	1,110.75	1,110.75
(10) Rancho Boyeros Oct. 14, 1960	26,673.60	10,663.20	10,663.20
(11) Personalty Dec. 6, 1961	16,671.00	6,664.50	6,664.50
(12) Roberts Tobacco Oct. 5, 1961	135,642.62	54,678.69	54,678.69
(13) Taino Oct. 14, 1960	165,226.82	21,142.14	21,142.14
(14) Central Nela Aug. 19, 1960	251,301.60	66,876.70	66,876.70
(15) Mayajigua Aug. 19, 1960	10,727.85	4,245.69	4,245.69
(16) Ganadera Aug. 19, 1960	17,500.00	--	--
(17) Debt Claim Constructora Oct. 15, 1959	464,795.97	184,256.36	184,256.36
(18) Debt Cl. Central Nela Aug. 19, 1960	<u>199,780.00</u>	<u>--</u>	<u>--</u>
Total	\$1,829,173.66	\$514,771.68	\$514,771.68

Accordingly, the aggregate losses suffered by ALEXANDER M. ROBERTS (Sr.) within the meaning of the Act amount to \$1,829,173.66 and the losses of ESTELA MARIA ROBERTS and ALEXANDER M. ROBERTS, JR. each to \$514,771.68.

It will be noted that in the claims of ESTELA MARIA ROBERTS and ALEXANDER M. ROBERTS, JR. the total amount found herein is in excess of the amount asserted in the claim. However, in determining the amount of the loss sustained, the Commission is not bound by any lesser or greater amount which may be asserted by the claimants as the extent thereof.

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>
<u>ALEXANDER M. ROBERTS (Sr.)</u>	
October 15, 1959	\$ 464,795.97
August 19, 1960	479,309.45
October 14, 1960	732,754.62
October 5, 1961	135,642.62
December 6, 1961	<u>16,671.00</u>
	\$1,829,173.66
<u>ESTELA M. ROBERTS and ALEXANDER M. ROBERTS, JR.</u>	
	<u>Each</u>
October 15, 1959	\$ 184,256.36
August 19, 1960	71,122.39
October 14, 1960	198,049.74
October 5, 1961	54,678.69
December 6, 1961	<u>6,664.50</u>
	\$ 514,771.68

CERTIFICATIONS OF LOSS

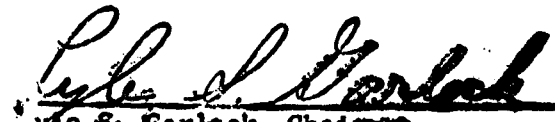
The Commission certifies that ESTELA MARIA ROBERTS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Hundred Fourteen Thousand Seven Hundred Seventy-One Dollars and Sixty-Eight Cents (\$514,771.68) with interest thereon at 6% per annum from the respective dates of the loss to the date of settlement;

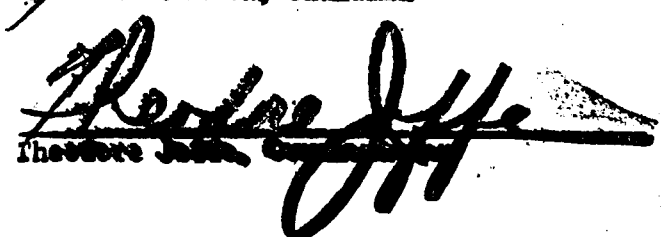
The Commission certifies that ALEXANDER M. ROBERTS, JR. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Hundred Fourteen Thousand Seven Hundred Seventy-One Dollars and Sixty-Eight Cents (\$514,771.68) with interest thereon at 6% per annum from the respective dates of the loss to the date of settlement; and

The Commission certifies that ALEXANDER M. ROBERTS 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 Million Eight Hundred Twenty-Nine Thousand One Hundred Seventy-Three Dollars and Sixty-Six Cents (\$1,829,173.66) with interest thereon at 6% per annum from the respective dates of the loss to the date of settlement.

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

JUL 7 1971


W. S. Garlock, Chairman


Theodore J. ...

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).)

CU-0511, CU-0512, CU-0515