

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

IN THE MATTER OF THE CLAIM OF

WILLIAM M. JACOBS, TRUSTEE
OF THE DELMAR TRUST

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0808

Decision No. CU - 234

PROPOSED DECISION

Claimant, WILLIAM M. JACOBS, Trustee of the DELMAR TRUST, asserts a claim in the total amount of \$103,400.00 under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba based upon ownership of 1,800 shares of Cia. Azucarera Vertientes-Camaguey de Cuba stock and 800 preferred shares of The Cuba Railroad Company stock.

The Commission finds, on the basis of evidence of record, that the DELMAR TRUST was the owner of 1,800 shares of Cia. Azucarera Vertientes-Camaguey de Cuba and 800 preferred shares of The Cuba Railroad Company.

Evidence of record establishes that the properties of Cia. Azucarera Vertientes-Camaguey de Cuba were taken by the Government of Cuba on August 6, 1960 (See the Claim of Ruth Anna Haskew, Claim No. CU-0849.) and The Cuba Railroad Company was taken on October 13, 1960 (See Claim of Irwin Nack and Ethel Nack, Claim No. CU-1960.)

The Commission has found that this type of claim is within the purview of Title V of the Act under the facts and conditions set forth in the cited decisions. We need not again detail here the reasons or the method used in determining the following values:

\$46.3946 per share of Vertientes (Haskew, supra), and

\$100.00 per preferred share of The Cuba Railroad Company (Nack, supra).

The Commission further finds that claimant owned the Vertientes stock and 300 Cuba Railroad shares prior to the cited dates of loss and that it sustained losses, in the amounts shown below, within the meaning of Title V of the Act:

1,800 shares of Cia. Azucarera Vertientes-Camaguey de Cuba	\$ 83,510.28
300 preferred shares of The Cuba Railroad Company	<u>30,000.00</u>
	\$113,510.28

On the basis of evidence of record, the Commission also finds that the claimant acquired additional preferred shares of The Cuba Railroad Company as follows:

80 shares on October 14, 1960, for	\$329.40
320 shares on October 17, 1960, for	988.20
100 shares on or about October 24, 1960, for the estimated amount of	<u>300.00</u>
	1,617.60

Claimant failed to submit evidence to establish the exact date when the last mentioned 100 preferred shares of The Cuba Railroad Company stock were purchased and the amount of purchase price paid. In absence of primary evidence the purchase date of October 24, 1960, is established by the Commission on the basis of the date when the stock certificate for the 100 shares in question was issued, on which date the market price for one share was \$3.00.

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.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of

loss to the date of filing with the Commission. The loss in connection with The Cuba Railroad occurred on October 13, 1960. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Commission finds that claimant, as an assignee by purchase, acquired the claim for the loss sustained by the assignors of the 500 preferred shares of the Cuba Railroad securities, but under the limitations provided in Section 507 of the Act (supra), is limited to \$1,617.60, the actual consideration paid for these shares.

The Commission has decided that in certification 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from the dates shown below to the date on which provisions are made for the settlement thereof.

<u>FROM:</u>	<u>ON:</u>
August 6, 1960	\$ 83,510.28
October 13, 1960	30,000.00
October 14, 1960	329.40
October 17, 1960	988.20
October 24, 1960	<u>300.00</u>
	\$115,127.88

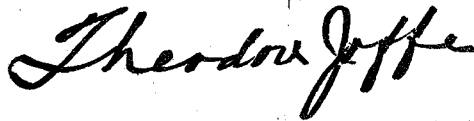
It is noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amount which may be asserted by claimant as the extent thereof.

CERTIFICATION OF LOSS

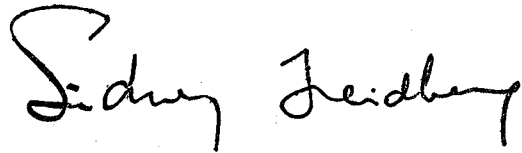
The Commission certifies that WILLIAM M. JACOBS, TRUSTEE OF THE DELMAR TRUST sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Fifteen Thousand One Hundred Twenty-Seven Dollars and Eighty-Eight Cents (\$115,127.88) with interest thereon at 6% per annum from the aforesaid dates to the date of settlement.

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

22 JAN 1970



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

Beneficiaries of this certification may be subject of a certification in CU-0815.

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. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)