

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

IN THE MATTER OF THE CLAIM OF

MILTON ZELNER
RAE ZELNER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2634

Decision No. CU

4635

PROPOSED DECISION

Claimants, MILTON ZELNER and RAE ZELNER, who owned common stock interests in the Havana Lithographing Company and United Cuban Oil, Inc., assert a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Companies.

In our decision entitled the Claim of Central West Company (Claim No. CU-3440 which we incorporate herein by reference), we held that the properties owned by the Havana Lithographing Company were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per common stock share of \$2.51.

On the basis of evidence in the record in the instant case, the Commission finds that claimants come within the terms of the Central West decision; that they were American nationals at the requisite times; that they jointly had been the owners of 200 shares of stock in the Havana Lithographing Company since prior to October 13, 1960; and that they suffered a loss in the amount of \$502.00 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 October 13, 1960, the date of loss, to the date on which provisions are made for the settlement thereof. (See Central West, supra.)

Claim has also been made for 200 shares of United Cuban Oil, Inc.

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.

The stock certificates of United Cuban Oil, Inc., reflect that it was incorporated in the State of Delaware. The President of the United Cuban Oil, Inc., has informed the Commission that over 50 per centum of the capital stock of said corporation is owned by United States citizens, which would qualify it as a United States national within the purview of Section 502(1)(B) of the Act.

Section 505(a) of the Act provides that

"A claim under section 503(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered. . . ."

The Commission concludes that since this claim is based on a stock interest in a corporation which qualifies as a United States national, the Commission is precluded, under Section 505(a) from considering this portion of the claim. Accordingly, it is hereby denied. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FCSC Semiann. Rep. 48 [July-Dec. 1966].)

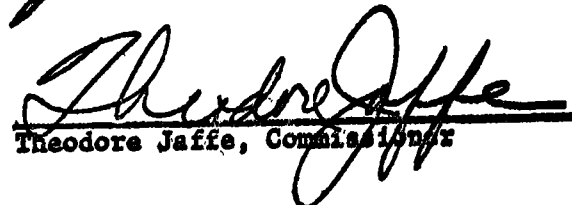
CERTIFICATION OF LOSS

The Commission certifies that MILTON ZELNER and RAE ZELNER jointly 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 Two Dollars (\$502.00) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

18 MAR 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


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 claimants establish 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).)