

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

IN THE MATTER OF THE CLAIM OF

ABNER L. JOHNSON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-5058

Decision No. CU-4012

AMENDED PROPOSED DECISION

On October 8, 1969, the Commission issued its Proposed Decision in this matter certifying a loss to the claimant in the amount of \$171.83 based on a participation interest in Cuban Venezuelan Oil Voting Trust, with interest at 6% per annum on \$71.83 from November 23, 1959 and on \$100.00 from January 29, 1962. Since then claimant has submitted additional evidence and the decision is hereby amended.

The Commission finds that claimant also owned a stock interest in the Trans-Cuba Oil Company. In our decision entitled the Claim of D. R. Wimberly (Claim No. CU-3417 which we incorporate herein by reference), we held that the properties owned or controlled by the Company were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, 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 share of \$0.1198.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Wimberly decision; that he was an American national at the requisite times; that he has been the owner of 200 shares of stock in the Trans-Cuba Oil Company since prior to November 23, 1959; and that he thereby suffered a loss in the amount of \$23.96 within the meaning of Title V of the Act.

The amount of total loss sustained shall be increased by interest thereon at the rate of 6% per annum from the dates of loss to the date on which provisions are made for the settlement thereof, as follows:

<u>FROM</u>	<u>ON</u>
November 23, 1959	\$ 95.79
January 29, 1962	<u>100.00</u>
	\$195.79

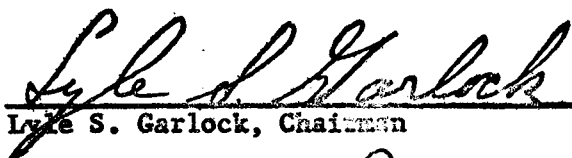
Accordingly, the Certification of Loss, as restated below, will be entered and in all other respects the Proposed Decision is affirmed.

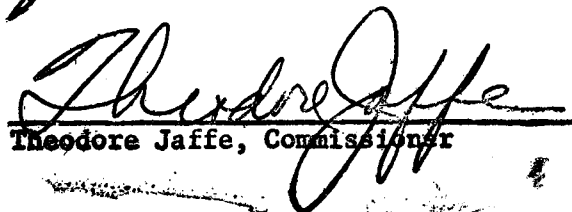
CERTIFICATION OF LOSS

The Commission certifies that ABNER L. JOHNSON 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 Hundred Ninety-five Dollars and Seventy-nine Cents (\$195.79) with interest at 6% per annum from the aforesaid dates to the date of settlement.

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

9 SEP 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, 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 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).)

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Decision No. CU 4012

PROPOSED DECISION

Claimant, ABNER L. JOHNSON, who owned a participation interest in the Cuban Venezuelan Oil Voting Trust, asserted a claim under Title V of the International Claims Settlement Act of 1949, as amended, on October 5, 1967 against the Government of Cuba because of its nationalization of said Trust.

The Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967, (FCSC Reg., 45 C.F.R. See 513.1(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g))

No claim was filed with this Commission by or on behalf of claimant within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning this asserted loss.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.)

In our decision entitled the Claim of Felix Heyman (Claim No. CU-0412 which we incorporate herein by reference), we held that the properties woned or controlled by the Trust were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, 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 unit of \$0.11971.

On the basis of evidence in the record in the instant case, the Commission finds that this claim comes within the terms of the Heyman decision; that he was an American national at the requisite times; that he has been the owner of 600 units of participation in the Cuban Venezuelan Oil Voting Trust since prior to November 23, 1959; and that he suffered a loss in the amount of \$71.83 in connection therewith within the meaning of Title V of the Act.

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.

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, on 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 assignment of a claim by any assignee.

On the basis of evidence of record, the Commission also finds that claimant acquired 1,000 units of Cuban Venezuelan by purchase on January 29, 1962 for a consideration of \$100.00.

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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 occurred on November 23, 1959. 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).

The Commission finds that claimant, as an assignee by purchase acquired the claim for the loss sustained by the assignor of the 1000 claimed units, but under the limitation provided in Section 507 of the Act (supra) is limited to \$100.00, the actual consideration paid for these units.

The Commission has decided that in certification of losses 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), and in the instant case, it is so ordered.

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 below, to the date on which provisions are made for the settlement thereof:

CU-5058

<u>FROM</u>	<u>ON</u>
November 23, 1959	\$ 71.83
January 29, 1962	100.00

CERTIFICATION OF LOSS

The Commission certifies that ABNER L. JOHNSON 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 Hundred Seventy-one Dollars and Eighty-three Cents (\$171.83) with interest 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

OCT 8 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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