

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

IN THE MATTER OF THE CLAIM OF

F. WILLARD GRIFFITH
ROBERT L. WARREN
CHARLES J. DONNELLY, Jr.

Claim No. CU-8812

Decision No. CU-6828

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

F. Willard Griffith

Appeal and objections from a Proposed Decision entered on April 28, 1972; no oral hearing requested.

Hearing on the record held on June 23, 1972.

FINAL DECISION

Under date of April 28, 1972 the Commission issued its Proposed Decision on this claim, certifying losses to the claimants in the aggregate amount of \$20,027, based on their losses in connection with the loss of the branch office of Laboratorios Griffith, S.A., of Panama, owned by these claimants.

Subsequent to the issuance of the Proposed Decision the Commission received another piece of evidence from Laboratorios Griffith, S.A., of Mexico indicating that they had received payment of \$721.84 which had been due from Griffith of Panama. This item shows on the certified audit of April 30, 1961, and was in fact included in the liabilities deducted from the asset value to reach the net loss.

Accordingly, the Commission now finds that the loss of the claimants aggregated \$20,748.84, or \$94.3129 per share and further finds that claimants suffered the following losses within the meaning of Title V of the Act, as a result of the intervention of Laboratorios Griffith, S.A., by the Government of Cuba on May 1, 1961:

F. WILLARD GRIFFITH	\$9,431.29
ROBERT L. WARREN	9,431.29
CHARLES J. DONNELLY, JR.	1,886.26

The Commission affirms its holding that interest shall be included at the rate of 6% per annum from the date of loss to the date of settlement.

The Certifications of Loss in the Proposed Decision are set aside and the following Certifications of Loss are entered, and in all other respects the Proposed Decision is affirmed.

CERTIFICATIONS OF LOSS

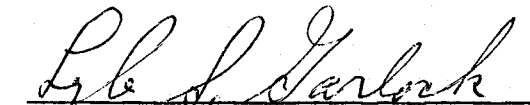
The Commission certifies that F. WILLARD GRIFFITH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nine Thousand Four Hundred Thirty-One Dollars and Twenty-Nine Cents (\$9,431.29) with interest thereon at 6% per annum from May 1, 1961 to the date of settlement; and

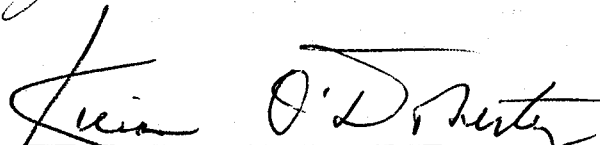
The Commission certifies that ROBERT L. WARREN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nine Thousand Four Hundred Thirty-One Dollars and Twenty-Nine Cents (\$9,431.29) with interest thereon at 6% per annum from May 1, 1961 to the date of settlement; and

The Commission certifies that CHARLES J. DONNELLY, 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 One Thousand Eight Hundred Eighty-Six Dollars and Twenty-Six Cents (\$1,886.26) with interest at 6% per annum from May 1, 1961 to the date of settlement.

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

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, 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.

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Act of 1949, as amended

Counsel for claimant:

F. Willard Griffith

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 F. WILLARD GRIFFITH, ROBERT L. WARREN and CHARLES J. DONNELLY, Jr., in the aggregate amount of \$32,114.49, based on respective interests in Laboratorios Griffith, S.A. Claimants have been nationals of the United States since birth.

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.

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. Sec. 531.1(d) (1970)); 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 these claimants within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning these asserted losses. 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.) This is such a claim.

The record discloses that Laboratorios Griffith, S.A., had 220 shares of stock outstanding. These were owned 100 by F. Willard Griffith, 100 by Robert L. Warren and 20 by Charles J. Donnelly, Jr.

The record indicates that Laboratorios Griffith, S.A. was intervened by the Government of Cuba on May 1, 1961. This corporation was organized under the laws of the Republic of Panama and does not qualify as a corporate "national 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 per centum or more in natural persons who are citizens of the United States.

Therefore, these claimants are entitled to file this claim based upon their ownership therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The Cuban branch of Laboratorios, Griffith S.A. was engaged in supplying casings, seasonings and curing materials to the meat packing and food processing industries in Cuba.

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.

Claimants have submitted a balance sheet for the Cuban branch, and thereafter a certified audit as of April 30, 1961. This reflects the following:

ASSETS

Current:

Cash - The Royal Bank of Canada	\$ 351.62	
The Bank of Nova Scotia	18,005.70	
Petty Cash	<u>50.00</u>	\$18,407.32
Collectable Accounts		5,675.30
Inventory		6,891.96
Merchandise in Transit (see below)		1,750.00
Furniture and Fixtures		<u>1,268.57</u>
		\$33,993.15

LIABILITIES

Current Liabilities			
Importation Payable			
Accounts		\$28,225.25	
Payable Taxes		600.61	
Accrued Expenses		<u>263.55</u>	\$29,089.41
Capital		\$ 5,000.00	
Main Office Adjustment	86.46		
Loss of the Exercise	9.80	<u>96.26</u>	<u>4,903.74</u>
			\$33,993.15

The notes accompanying the report indicate that the item Merchandise in Transit of \$1,750 was in fact received after preparation of the balance sheet. Further, the Commission has received an affidavit indicating that of the item Importation Payable Accounts, a total of \$20,027 was liquidated.

On the basis of this record the Commission finds that the loss in Cuba of Laboratorios Griffith, S.A., was the asset value of \$33,993.15 less the adjusted liabilities of \$13,966.15, leaving a loss to the company of \$20,027.00. This represents \$91.0318 per share of outstanding stock.

Accordingly, the Commission finds that claimants suffered the following losses within the meaning of Title V of the Act, as a result of the intervention of Laboratorios Griffith, S.A., by the Government of Cuba on May 1, 1961:

F. WILLARD GRIFFITH	\$9,103.18
ROBERT L. WARREN	\$9,103.18
CHARLES J. DONNELLY, JR.	\$1,820.64

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.

CERTIFICATIONS OF LOSS

The Commission certifies that F. WILLARD GRIFFITH 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 Nine Thousand One Hundred Three Dollars and Eighteen Cents (\$9,103.18) with interest thereon at 6% per annum from May 1, 1961 to the date of settlement; and

The Commission certifies that ROBERT L. WARREN 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 Nine Thousand One Hundred Three Dollars and Eighteen Cents (\$9,103.18) with interest thereon at 6% per annum from May 1, 1961 to the date of settlement; and

The Commission certifies that CHARLES J. DONNELLY, 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 One Thousand Eight Hundred Twenty Dollars and Sixty-Four Cents (\$1,820.64) with interest at 6% per annum from May 1, 1961 to the date of settlement.

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

88 APR 1972

By Order of the Commission


Lyle S. Garlock, Chairman

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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. 31.5(e) and (g), as amended (1970).)