

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

IN THE MATTER OF THE CLAIM OF

MAXANT BUTTON & SUPPLY CO.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0173

Decision No. CU

107

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$1,090.30 was presented by the MAXANT BUTTON & SUPPLY CO. based upon the asserted loss of payment for merchandise shipped to Cuba.

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. That section 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.

Section 502(1) of the Act defines the term "national of the United States" as "(B) 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 record contains a certified copy of the Articles of Incorporation which reflect that claimant was organized under the laws of the State of Illinois in November 1911. The record reflects further that there are 127 1/2 shares of outstanding capital stock of which over fifty percent are held by the following persons:

Edwin A. Maxant, born August 5, 1905 in  
Chicago, Illinois - 15 1/2 shares;

Alice Maxant Schneider, born October 13, 1906 in  
Brookfield, Illinois - 17 1/2 shares;

William H. Maxant, born June 21, 1909 in  
Brookfield, Illinois - 17 1/2 shares;

Robert E. Maxant, born February 16, 1915 in  
Brookfield, Illinois - 15 1/2 shares;

Grace Shirley Maxant Bennett, born December 7, 1924 in  
Oak Park, Illinois - 17 1/2 shares.

The Treasurer of the Corporation certified that the remaining 44 shares of outstanding capital stock are held by nineteen persons who have been nationals of the United States since their birth. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record contains a copy of invoice numbers 4723 and 4717 dated December 10, 1959 and December 7, 1959, respectively. Invoice No. 4723 reflects a sale made to Jose M. Carbato, Neptuno 209, Havana, Cuba, in

the amount of \$480.15. Invoice No. 4717 reflects a sale made to Creaciones Mysora, Mysora Garcia Rodriguez, Compostela 512-514, Havana, Cuba, in the amount of \$610.15. Both invoices designated The Trust Company of Cuba, Obispo #257, Havana, Cuba, as the collection bank.

The record also contains a copy of two letters dated August 31, 1960 and April 28, 1960, from The Trust Company of Cuba wherein it was stated that the bank received the respective amounts of \$480.15 and \$610.15 concerning invoice numbers 4723 and 4717 and that the bank was awaiting a reimbursement release from the Cuban Exchange Board. Claimant states that it has not received the funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded transfers of funds, in this and similar cases, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See the Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019.).

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the loss occurred on February 13, 1960, as to \$610.15 and on February 5, 1960, as to \$480.15, the dates on which the collections were acknowledged by The Trust Company of Cuba.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of American Cast Iron Pipe Company, FCSC Claim No. CU-0249).

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

CERTIFICATION OF LOSS

The Commission certifies that MAXANT BUTTON & SUPPLY CO. 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 Ninety Dollars and Thirty Cents (\$1,090.30) with interest thereon at 6% per annum from the respective date of loss to the date of settlement.

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

JUL 26 1967

CERTIFICATION

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on ----- AUG 25 1967 -----

*Edward D. Re*

Edward D. Re, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Francis M. ...*

Clerk of the Commission

*LaVern R. Dilweg*

LaVern R. Dilweg, Commissioner

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, upon the expiration of 30 days after such service or receipt of notice, will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)