

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

IN THE MATTER OF THE CLAIM OF

ANCORP NATIONAL SERVICES, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0442

Decision No. CU 3975

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$60,175.09, was presented by The American News Company, a corporation now known as ANCORP NATIONAL SERVICES, INC., based upon the asserted loss of certain personal property in 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. 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.

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 record shows that claimant was organized under the laws of Delaware and that at all pertinent times more than 50% of claimant's outstanding capital stock was owned by nationals of the United States. An authorized officer of claimant has stated under date of June 17, 1969 that less than 1% of claimant's outstanding capital stock was owned by nonnationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The evidence establishes that claimant leased and operated a book shop and a tobacco shop on the premises of Hotel Libre in Havana, Cuba, which premises had been rented as a hotel to the Havana Hilton Hotel (Hoteles Hilton de Cuba, S.A.), a Cuban corporation. In connection with these operations, claimant owned certain items of personal property. It further appears from the evidence of record that claimant's two shops were intervened by the Cuban Minister of Labor on September 19, 1960 by Resolution 20441, pursuant to Law 647 of November 24, 1959. As a result of said action by the Government of Cuba, claimant sustained a loss of its property on September 19, 1960 within the meaning of Title V of the Act, except as noted below.

Claimant has computed its claim as follows:

Cash in Bank	\$33,090.00
Petty Cash	200.00
Accounts Receivable - Hotel Libre	604.55
Inventory	4,493.40
Prepaid Rent	2,139.79
Bonds - Havana Hilton	6,200.00
Furniture & Fixtures - Net	<u>13,447.35</u>
	\$60,175.09

The record also includes a balance sheet for claimant's two shops as of June 30, 1960, which claimant had submitted to the Department of State under date of August 12, 1960. That balance sheet shows the following:

	<u>Book Shop</u>	<u>Cigar and Tobacco Shop</u>	<u>Total</u>
<u>ASSETS</u>			
Cash	\$16,436.49	\$15,258.09	\$31,694.58
Accounts Receivable	637.05	591.38	1,228.43
Inventory	1,634.89	2,557.63	4,192.52
Bonds	3,000.00	3,200.00	6,200.00
Furniture and Fixtures (net of depreciation reserve)	<u>8,079.18</u>	<u>5,260.89</u>	<u>13,340.07</u>
Total Assets	<u><u>\$29,787.61</u></u>	<u><u>\$26,867.99</u></u>	<u><u>\$56,655.60</u></u>
<u>LIABILITIES & CAPITAL</u>			
<u>LIABILITIES:</u>			
Accounts Payable	\$ 279.32	\$ 259.29	\$ 538.61
Due to Union News Co. USA	<u>25,648.82</u>	<u>24,225.02</u>	<u>49,873.84</u>
Total Liabilities	<u><u>\$25,928.14</u></u>	<u><u>\$24,484.31</u></u>	<u><u>\$50,412.45</u></u>
<u>CAPITAL:</u>			
Invested Capital	\$ 7,500.00	\$ 7,500.00	\$15,000.00
Deficit	<u>(3,710.90)</u>	<u>(5,045.95)</u>	<u>(8,756.85)</u>
Total Capital	<u><u>\$ 3,789.10</u></u>	<u><u>\$ 2,454.05</u></u>	<u><u>\$ 6,243.15</u></u>
Total Liabilities and Capital	<u><u>\$29,717.24</u></u>	<u><u>\$26,938.36</u></u>	<u><u>\$56,655.60</u></u>

It appears that an inventory was taken by the intervener on September 27, 1960, which indicates that claimant's shops had on hand a small sum of money; some stamps; a bank book showing a credit balance of \$300.00 (the Cuban peso being on a par with the United States dollar) in favor of claimant at Banco Pedroso, Havana; and a detailed list of books, tobacco products and other supplies used in claimant's shops. Claimant has stated under date of June 17, 1969 that the items of property inventoried by the intervener belonged to its branch officer, except for the bank book and the books, tobacco products and supplies, which belonged to claimant.

Cash in Bank

The record also includes a copy of a statement from Banco Pedroso, showing a credit balance in favor of claimant as of September 30, 1960 in the amount of \$34,699.45. Claimant has stated, on the basis of its books and records, that there were outstanding checks in the amount of \$1,609.45, so that claimant's net bank balance was \$33,090.00 and that the bank book with a credit of \$300.00 was included as part of the \$33,090.00 bank balance.

On the basis of the foregoing evidence, the Commission finds that on September 19, 1960, the date of loss, claimant's bank account had a value of \$33,090.00.

Petty Cash

Claimant asserts the loss of petty cash (cash on hand) at its two Cuban stores in the amount of \$200.00. The intervener's inventory of these two stores showed cash in the amount of \$50.25 and \$27.50 in stamps. Accordingly, the Commission directed claimant's attention to these circumstances under date of March 19, 1969, and asked for an explanation. As indicated above, claimant's response of June 17, 1969 was that those assets belonged to the branch manager. Claimant also stated in that letter that the \$200.00 was "a deposit in lieu of a bond". The Commission suggested in a letter, dated June 20, 1969, that evidence be submitted to support this asserted deposit of \$200.00. When no response was received, a "follow-up" letter of July 31, 1969 was mailed to claimant. No response has been received to date.

The claim for bonds is discussed below. There being no evidence to establish a loss of petty cash in the amount of \$200.00, as asserted by claimant, this portion of the claim is denied.

Accounts Receivable

In its official claim form, claimant stated that the amount due from Hotel Libre, a Cuban entity, was \$604.55. The balance sheet of June 30, 1960 shows accounts receivable in the aggregate amount of \$1,228.43. The lower amount, however, is supported by a statement from claimant's Controller, dated August 20, 1964. On the basis of the entire record, the Commission finds that the debt owed claimant by Hotel Libre was \$604.55.

The Commission has held that debts of an intervened or nationalized Cuban enterprise owed to an American claimant constitute losses occurring on the date of intervention or nationalization within the meaning of Title V of the Act. (See Claim of Kramer, Marx, Greenlee & Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

The record shows that Hotel Havana Hilton, which rented the premises from Hotel Libre, was intervened by the Government of Cuba on June 10, 1960 by Resolution 4231, pursuant to Law 647 of November 24, 1959 (See Claim of Hilton International Company, Claim No. CU-2965.) The Commission finds that Hotel Libre was also intervened by the Government of Cuba on June 10, 1960, and that the debt due claimant on June 10, 1960, the date of loss, was \$604.55.

Inventory

The intervener's inventory includes a list of books, materials and supplies found on the premises of claimant's two shops. Based upon the entire record, the Commission finds that the value of claimant's inventory on September 19, 1960, the date of loss, was \$4,493.40.

Prepaid Rent

Claimant has asserted the loss of prepaid rent (deferred charges) in the amount of \$2,139.79. No such item appears in the balance sheet of June 30, 1960, although it is mentioned in claimant's letter of August 20, 1964. Considering the entire record and recognizing that rent is customarily paid in advance on or about the first of each month, the Commission finds that on September 19, 1960, the date of loss, claimant's asset, prepaid rent, had a value of \$2,139.79.

Bonds

Claim is asserted in the amount of \$6,200.00 for bonds issued by Hotel Havana Hilton. The record includes copies of bonds in the face amount of \$6,000.00, of the Bank of Economic and Social Development (BANDES), Hotel Havana Hilton. Information available to the Commission discloses that pursuant to Law 847 of July 12, 1960, the Government of Cuba assumed all obligations of the dissolved BANDES. It is not clear whether the obligation in question was that of Hotel Havana Hilton, as asserted by claimant, or of the Government of Cuba. In either event, it would fall within the purview of Title V of the Act in view of the intervention of the hotel in which claimant's two shops were located.

Claimant's official claim form, the balance sheet of June 30, 1960 and claimant's letter of August 20, 1964 support the claim for a debt in the amount of \$6,200.00. Moreover, it was noted, under "Petty Cash" above, that claimant had stated that it had deposited \$200.00 in lieu of a bond.

On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that claimant was owed a debt in the amount of \$6,200.00, on June 10, 1960, the date of loss (intervention of Hotel Havana Hilton by the Government of Cuba).

Furniture and Fixtures

The record includes a number of bills, dated in 1958, indicating the installation of furniture and fixtures at claimant's two shops in Cuba, as well as a schedule showing the original cost, the depreciation taken and the net value thereof on the date of loss.

On the basis of the entire record, the Commission finds that the aggregate value of claimant's furniture and fixtures on September 19, 1960, the date of loss, was \$13,447.35.

Recapitulation

Claimant's losses may be summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Cash in Bank	September 19, 1960	\$33,090.00
Accounts Receivable	June 10, 1960	604.55
Inventory	September 19, 1960	4,493.40
Prepaid Rent	September 19, 1960	2,139.79
Bonds	June 10, 1960	6,200.00
Furniture & Fixtures	September 19, 1960	<u>13,447.35</u>
	Total	<u>\$59,975.09</u>

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 respective dates 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 as follows:

<u>FROM</u>	<u>ON</u>
June 10, 1960	\$ 6,804.55
September 19, 1960	<u>53,170.54</u>
Total	<u>\$59,975.09</u>

CERTIFICATION OF LOSS

The Commission certifies that ANCORP NATIONAL SERVICES, INC. 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 Fifty-nine Thousand Nine Hundred Seventy-five Dollars and Nine Cents (\$59,975.09) with interest at 6% per annum from June 10, 1960 on \$6,804.55 and from September 19, 1960 on \$53,170.54 to the date of settlement.

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

OCT 1 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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 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).)