

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

IN THE MATTER OF THE CLAIM OF

M. STEINBERG & SON, INC.

Claim No. CU -0533

Decision No. CU 364

Under the International Claims Settlement  
Act of 1949, as amended

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 M. STEINBERG & SON, INC. in the amount of \$12,424.34 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. 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) 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 President of claimant corporation has certified that the claimant was organized on November 1, 1946 under the laws of the State of New York and that at all times between November 1, 1946 and the presentation of this claim on October 29, 1965, all of the outstanding capital stock of claimant corporation has been owned by Adolf Steinberg, who has been a national of the United States since his birth on January 12, 1902. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant's loss by consignments to Cuba is asserted as follows:

<u>Invoice No.</u>	<u>Amount</u>
6035 - Laszlo Fischer	\$ 482.44;
6035-A - Laszlo Fischer	482.43;
6036 - Noe Smith	2,614.72;
6037 - Noe Smith	2,903.78;
6027 - L. Rubio, S.A.	801.18;
6027-A - L. Rubio, S.A.	801.17;
6012 - Jorge J. Dau	740.62;
6050 - Garcia Varsas y Cia	1,422.96;
6093 - Guillermo Martinez Jaen	870.23;
6093-A - Guillermo Martinez Jaen	870.22;
6007 - Collazo Hmo. y Cia	217.30; and
6007-A - Collazo Hmo. y Cia	<u>217.29.</u>
	\$12,424.34

With regard to Invoice No. 6027, the Havana branch of The Royal Bank of Canada stated in its letter of January 11, 1961, that the consignee, L. Rubio, S.A., made a partial payment on the draft in the amount of \$200.00 and that it was awaiting the balance of the draft which was

due on June 3, 1960. However, the bank was holding the monies in a special account as partial payments could not be made under the revised exchange regulations.

With regard to the other accounts, except No. 6027-A, letters of The Chase Manhattan Bank, The Royal Bank of Canada, and The First National Bank of Boston indicate that collection had been made in full and that the branch banks in Cuba were awaiting a dollar reimbursement release from the appropriate Cuban exchange authorities. Claimant states that it has not received the funds for any of the subject accounts.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded not only transfers of funds to creditors abroad, but also payment to creditors within Cuba, by numerous, unreasonable and costly 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; and the Claim of Etna Pozzolana Corporation, FCSC Claim No. CU-0049).

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 the following dates:

February 2, 1960	as to	\$ 482.44
February 10, 1960	as to	482.43
July 2, 1960	as to	2,614.72
July 2, 1960	as to	2,903.78
January 12, 1961	as to	200.00
January 8, 1960	as to	740.62
January 14, 1960	as to	1,422.96
February 11, 1960	as to	870.23
March 19, 1960	as to	870.22
December 19, 1959	as to	217.30
January 27, 1960	as to	217.29

the days after the above collections were acknowledged;

June 3, 1960	as to	\$ 601.18
November 30, 1960	as to	801.17

the due dates.

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 Lisle Corporation, FCSC Claim No. CU-0644).

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 respective dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that M. STEINBERG & SON, 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 Twelve Thousand Four Hundred Twenty-Four Dollars and Thirty-Four Cents (\$12,424.34) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

OCT 4 1967

*Edward D. Re*

Edward D. Re, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*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 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).)

CERTIFICATION

This is a true and correct copy of the decision  
of the Commission entered as the final  
decision on 6 NOV 1967 GU-0533

*Francis M. Thompson*  
Member of the Commission