

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

IN THE MATTER OF THE CLAIM OF

CANNON MILLS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0682

Decision No. CU 000042

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$3,672.26 was presented by CANNON MILLS, INC. based upon the asserted ownership of unpaid invoices for merchandise ordered and shipped to three Cuban consignees.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) 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

(a) . . . 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 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 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 claim form presented in this matter was signed by Percy C. Hunt, Assistant Treasurer. Item 11 of the claim form recites that CANNON MILLS, INC. is a wholly-owned subsidiary of Cannon Mills Company, Kannapolis, North Carolina. No information was furnished to establish that at all times from the date of loss to the presentation of this claim, more than 50 percent of the outstanding capital stock of Cannon Mills Company was owned by United States nationals and no information was submitted to establish the number of outstanding shares of capital stock and the number of persons holding such stock at the time of loss and on the date of presentation of this claim. In addition, no statement by the secretary or other principal officer of the corporation certifying the above was presented with the claim, as specified at the end of Item 11 of the claim form.

The claim is based on unpaid invoices for merchandise said to have been ordered and shipped to three consignees in Havana, Cuba. No evidence was submitted in support of this allegation.

Although the claimant has the burden of proof in establishing his claim, suggestions were made to claimant as to evidence appropriate to submit in support of the claim. By Commission letter of July 29, 1966, it was suggested that there be submitted a certificate of a corporate officer concerning the number and nationality of stockholders; evidence as to the place of organization of CANNON MILLS, INC. and Cannon Mills Company and copies of invoices. It was also suggested that claimant submit any evidence it might have reflecting that any payments had been made by consignees to banks in Cuba. This suggestion was based on evidence in many claims before the Commission reflecting that frequently consignees paid their debts, although funds were not transmitted to claimants.

As no reply was received to the Commission's letter of July 29, 1966, it was considered appropriate to remind the claimant. Accordingly, on October 25, 1966, a letter was dispatched reminding claimant that no reply had been received. Further by letter of February 3, 1967, it was suggested that claimant submit a certificate setting out the percentage of corporate stock of Cannon Mills Company held by United States nationals, and the percentage, if any, held by non-United States nationals.

By letter of February 7, 1967, CANNON MILLS, INC. through its Assistant Treasurer, Percy C. Hunt, has advised the Commission in substance that the subject claim will not be developed further for the reason that claimant cannot supply the necessary evidence, including copies of the invoices.

Consequently, it is clear that the claimant does not choose to establish whether it is a corporation which qualifies as a national of the United States in that fifty per centum or more of its outstanding capital stock was owned directly or indirectly by natural persons who are citizens of the United States, as is required under the provisions of section 502(1)(B) of Title V of the Act.

Moreover, even if the claimant did establish that it is a qualified claimant under the Act, it has not established, and apparently does not choose to establish, that it has any claim against the Government of Cuba.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is denied.

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

JUN 14 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

CERTIFICATION

**This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on JUL 14 1967**

Travis Mackerson
Clerk of the Commission

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 upon the expiration of 30 days after such service or receipt of notice, the decision 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).)

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