

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

IN THE MATTER OF THE CLAIM OF

ASSOCIATED SPRING CORPORATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0753

Decision No. CU

2344

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 ASSOCIATED SPRING CORPORATION in the amount of \$17,993.17 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)(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.

An officer of the claimant corporation has certified that the claimant was organized in Delaware and that all times between June 10, 1925 and presentation of this claim on June 6, 1966, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The accounts subject of this claim arose in favor of Bowman Products Company, an Ohio corporation, 50% owned by United States nationals. The Commission holds that Bowman Products Company was and claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act. The assets and business of Bowman Products Company were purchased by claimant on December 14, 1964, its operations thenceforth conducted as a Division of claimant.

Claimant states that it has no substantial stockholders resident of foreign countries and assumed to be citizens of those countries.

The record contains copies of invoices and bank letters reflecting the sale to Cuban enterprises of Havana, Cuba, of goods as to which freight, shipping and other attendant fees increased the total to \$17,790.54, after application of credits. Drafts on some of these were paid to banks. 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 not only transfers of funds to creditors abroad, but also payment to creditors within Cuba, 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 Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019, 25 FCSC Semiann. Rep. 58 [July-Dec. 1966]; and 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 dates shown below:

CU-0753

<u>Consignee</u>	<u>Amount</u>	<u>Date of Loss</u>
Cia. Imp. Com. Fernandez de Linares, S.A.	\$ 452.22	September 29, 1959
Autos Posada, S.A.	509.55	October 7, 1959
Garage Villareal	488.62	November 21, 1959
Infanta Automovile Service	330.06	November 29, 1959
Autos Muzelle, S.A.	1,397.63	December 1, 1959
Cia. De Autos y Accesorios	\$ 409.02	
B. Ros e Hijos S. en C.	<u>1,715.14</u> 2,124.16	January 16, 1960
Autos Nunez, S.A.	1,260.51	January 19, 1960
Cia. Autos E. Inmuebles, S.A.	2,249.18	January 23, 1960
Jorge Villareal	\$2,008.74	
Humboldt Motors	<u>211.22</u> 2,219.90	March 25, 1960
Cia. Par Mo., S.A.	309.22	March 26, 1960
Autos Nunez, S.A.	893.87	April 21, 1960
Presilla y Molduras S.A.	1,494.16	April 22, 1960
Perez Rodriguez & Hnos	1,045.48	July 22, 1960
Doria Machado S.L.	1,372.79	August 12, 1960
Los Tres Grandes de Fernandez & Cia.	274.95	November 3, 1960
Autos Nunez, S.A.	837.72	December 3, 1960
Cia. de Autos y Accesorios, S.A.	<u>503.47</u>	January 20, 1961
	\$17,790.54	

The above dates are the date of Law 568, or the date payment was due or the day after payment was made to the bank, or the bank advised of such payment.

The Commission has decided that in certification 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 Lislé 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 date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ASSOCIATED SPRING CORPORATION 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 Seventeen Thousand Seven Hundred Ninety Dollars and Fifty-four cents (\$17,790.54) 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

JUL 31 1968

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

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).)