

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

IN THE MATTER OF THE CLAIM OF

SIDNEY FIELDS
DOING BUSINESS AS
FIELDS INTERNATIONAL

Claim No. CU - 1144

Decision No. CU

723

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, in the amount of \$1,572.91, was presented by SIDNEY FIELDS DOING BUSINESS AS FIELDS INTERNATIONAL, and is based upon the asserted loss of payment for merchandise shipped to Cuba. Claimant has been a national of the United States since birth.

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 503(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.

The record in this claim discloses that claimant was owed the sums of \$295.22, by Ferreteria Lisamar, S.A. of Havana, Cuba, and \$1,277.69, by Antonio Garcia and Company, of Pinar del Rio, Cuba, for merchandise sold and delivered to those consignees.

The record also includes a letter dated May 12, 1960 from the First National Bank of Chicago to claimant, stating that the Banco Agrícola e Industrial, of Mariana, Cuba, had advised under date of April 28, 1960, that the amount of \$295.22 had been paid by the consignee, Ferreteria Lisamar, S.A. and that the said bank was awaiting a dollar reimbursement release from Cuban authorities.

Further, the record contains a letter dated June 10, 1960, from the Banco Continental Cubano to claimant, advising that the collection of \$1,277.69 had been paid by the consignee, Antonio Garcia and Company, and that the said bank was awaiting a dollar reimbursement release from the Currency Stabilization Fund, a Cuban Government agency. Claimant states that he 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 April 29, 1960 as to \$295.22, and on June 11, 1960 as to \$1,277.69, the days after the collections were acknowledged by the Banco Agricola e Industrial and the Banco Continental Cubano, respectively.

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 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 dates on which the losses occurred to the date on which provisions are made for the settlement thereof, as follows:

On \$295.22 from April 29, 1960

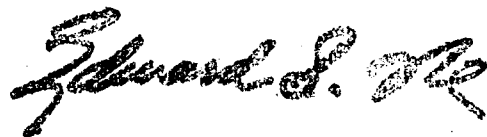
On \$1,277.69 from June 11, 1960

CERTIFICATION OF LOSS

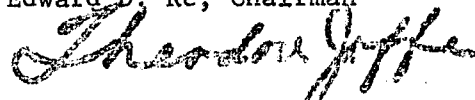
The Commission certifies that SIDNEY FIELDS DOING BUSINESS AS FIELDS INTERNATIONAL suffered a loss as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Five Hundred Seventy Two Dollars and Ninety One Cents (\$1,572.91) 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


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Edward D. Re, Chairman



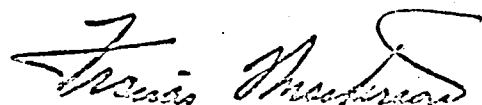
Theodore Jaffe, Commissioner



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 JAN 9 1958



Clerk of the Commission

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).)

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