

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

IN THE MATTER OF THE CLAIM OF

GUSTAVE C. BRUNN, RALPH A. BRUNN
SCOTT E. STRAHAN and JEROME A. MEUSEL

d. b. a.

GIBRALTAR MACHINE COMPANY

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU-1189

Decision No. CU- 4209

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$8,040.62 was presented by GUSTAVE C. BRUNN, RALPH A. BRUNN, SCOTT E. STRAHAN and JEROME A. MEUSEL d. b. a. GIBRALTAR MACHINE COMPANY based upon the asserted loss of personal property located in Mariano, 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.

The record includes a copy of a Partnership Agreement establishing that GIBRALTAR MACHINE COMPANY is a partnership consisting of four partners, GUSTAVE C. BRUNN, RALPH A. BRUNN, SCOTT E. STRAHAN and JEROME A. MEUSEL, nationals of the United States at all times pertinent to this claim.

The Commission holds that the GIBRALTAR MACHINE COMPANY, is a national of the United States within the meaning of the Act.

Claim is made herein for the loss of certain machinery, equipment, furniture and a packing table and for reimbursement of the cost of the freight in the United States for the shipment of machinery and equipment to the port of shipment.

The record contains a copy of an agreement entered into in 1957 whereby claimant leased to Cia Manufacturera Baltimore, S. A. of Marianao, Cuba, certain machinery, equipment, furniture, and a packing table at an established yearly rental. The record also contains copies of invoices and other records including charges for freight and shipping which reflect the purchase in the United States of the machinery and equipment in question, payment by claimant, and shipment to the Cuban corporation, and the purchase of the furniture and packing table in question in Cuba for the account of claimant and payment by claimant and the lease of this property to the Cuban corporation.

Based on the evidence of record the Commission finds that claimant owned the property in question.

The record reflects that the principal officers of the Cuban company abandoned the premises, apparently sometime in 1961.

On December 6, 1961, the Cuban Government published its Law 989 which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the claimants' machinery in Cuba, on the premises of the aforesaid Cuban company, was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966])

In determining the value of the property thus taken, the Commission has considered the purchase price of the property and the value asserted by the partners. On the basis of the entire record, after appropriate depreciation, the Commission finds that at the time of loss, the aggregate value of the property was \$6,770.48, and concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act.

Concerning the portion of the claim based on the items of freight cost to deliver the machinery and equipment within the United States estimated at \$75.00, claimant states it has no documents or other evidence to support this item of loss. The Commission is therefore constrained to hold that claimant has not established this portion of its claim, and accordingly it is denied for failure to meet the burden of proof.

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), and in the instant case, it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that GUSTAVE C. BRUNN, RALPH A. BRUNN, SCOTT E. STRAHAN, and JEROME A. MEUSEL d. b. a. GILBRALTAR MACHINE COMPANY 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 Six Thousand Seven Hundred Seventy Dollars and Forty-Eight Cents (\$6,770.48), with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

NOV 26 1969

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).)

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