

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

**IN THE MATTER OF THE CLAIM OF**

CLAIRE W. SANDBERG  
HARRY O. SANDBERG

**Claim No. CU -1268**

**Decision No. CU      4758**

**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 amended amount of \$5,505.70, was presented by CLAIRE W. SANDBERG based upon the asserted loss of payment for merchandise shipped to Cuba. Claimant, CLAIRE W. SANDBERG, 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. 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 discloses that HARRY O. SANDBERG, the husband of CLAIRE W. SANDBERG, has been a national of the United States since prior to 1942, and that he had an interest in this claim. Accordingly, HARRY O. SANDBERG is joined as claimant in this matter.

The record further discloses that the claimants were the sole stockholders of Northeastern Plastics, Inc., a Massachusetts corporation, and that by agreement entered into on October 23, 1959 they sold the assets of this corporation to Commonwealth Plastics Corp., a New York corporation but retained the right to accounts receivable. The record also establishes that Northeastern Plastics, Inc. was dissolved on December 20, 1960.

The record contains bank letters, copies of invoices of Northeastern Plastics, Inc. and other evidence reflecting sales to consignees in Cuba in the amounts shown below, including freight, shipping and other fees. The list includes dates payments were due or were made to collecting banks:

<u>Consignee</u>	<u>Date Due or Paid to Bank</u>	<u>Amount</u>
Suarez Gutierrez y Cia.	November 29, 1959	\$ 824.08
P. Fernandez y Cia.	January 19, 1960	3,300.00
Cultural, S.A.	February 10, 1960	<u>1,381.62</u>
		\$5,505.70

Claimant, CLAIRE W. SANDBERG, states that these funds were not received.

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 in 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, Claim No. CU-0019, 25 FCSC Semiann. Rep. 58 [July-Dec. 1966]; and Claim of Etna Pozzolana Corporation, Claim No. CU-0049, 1967 FCSC Ann. Rep. 46.)

Accordingly, in the instant claim, the Commission finds that the aforesaid sums totalling \$5,505.70 were lost as a result of intervention by the Government of Cuba, and that in the absence of evidence to the contrary, such losses occurred on November 29, 1959, the maturity date, as to \$824.08, and on January 20, 1960 and February 11, 1960 as to \$3,300.00 and \$1,381.62, respectively, the days after payment was acknowledged by the collecting bank.

<u>FROM</u>	<u>ON</u>
November 29, 1959	\$ 824.08
January 20, 1960	3,300.00
February 11, 1960	<u>1,381.62</u>
	\$5,505.70

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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered, from the aforesaid dates.

CERTIFICATION OF LOSS

The Commission certifies that CLAIRE W. SANDBERG and HARRY O. SANDBERG jointly 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 Five Thousand Five Hundred Five Dollars and Seventy Cents (\$5,505.70) 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

APR 22 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
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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