

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

IN THE MATTER OF THE CLAIM OF

ROBERT B. STEVENS

Claim No. CU-1898

Decision No. CU-2057

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections with respect to a Proposed Decision entered on
July 3, 1968.

Hearing on the record held on February 17, 1971

FINAL DECISION

Under date of July 3, 1968 the Commission issued its Proposed Decision denying the claim for the reason that the claimant failed to establish that the common stock of The Bohon Trading Corporation had any value on the date of loss, which was October 13, 1960. Claimant owned 50 shares of the said common stock.

Claimant objected to the Proposed Decision asserting that production by a newly constructed papermill would have eliminated the accumulated deficit at August 31, 1960, by the end of 1961 and that dividends were expected to be paid on the preferred stock in 1962. Claimant concluded that the value of The Bohon Trading Corporation should be computed on the basis of its going concern value and not upon net worth.

The Commission has re-examined this matter and additional evidence concerning the value of the assets of The Bohon Trading Corporation specifically an appraisal of the machinery and equipment, and the value of the land and buildings on which Bohon operated, which belonged to its subsidiary. Accordingly, the balance sheet of The Bohon Trading Corporation (as set out in the decision on the Claim of Stevens & Thompson Paper Company, CU-1542) is restated as follows:

ASSETS

Current:			
Cash		\$ 100.00	
The National City Bank - Special Deposit		2,552.50	
Accounts Receivable - Customers		25,926.40	
Accrued Interest Receivable		213.75	
Other Accounts Receivable		17,193.74	
Inventories		<u>121,912.47</u>	\$167,898.86
Investment: Cia. Inmobiliaria			132,500.00
Net Surrender Value of Insurance Policy			3,737.49
Fixed Assets:			
Machinery & Equipment	\$689,210.00		
Less Depreciation	<u>- 55,136.80</u>	634,073.20	
Furniture & Fixtures	3,890.52		
Transport Equipment	3,627.84		
Miscellaneous Equipment	<u>2,090.12</u>		
	9,608.48		
Less Depreciation	<u>- 768.68</u>	<u>8,839.80</u>	642,913.00
Trade Mark, Cost less Amortization			887.74
Deferred Charges:			
Prepaid Insurance		7,627.56	
Prepaid Advertising		<u>2,635.33</u>	10,262.89
Deposits			<u>39,329.35</u>
TOTAL ASSETS			<u>\$997,529.33</u>

LIABILITIES

Current:			
Banco Nunez		\$ 75,276.17	
Accounts Payable		109,882.48	
Accruals:			
Taxes	\$ 5,283.14		
Commissions	4,662.43		
Paid Vacations	<u>4,616.70</u>	14,562.27	
The Bohon Co., Inc.		<u>15,276.95</u>	\$214,997.87
Capital:			
Preferred Stock Outstanding \$100 par		\$537,200.00	
Common Stock Outstanding \$100 par		<u>79,200.00</u>	616,400.00
Surplus			<u>166,131.46</u>
TOTAL LIABILITIES			<u>\$997,529.33</u>

The Commission affirms its finding (in Claim No. CU-1542) that deferred expenses and organization expenses, totalling \$35,349.02, listed as assets on the Corporation balance sheet are previously incurred expenses and should not be considered as assets.

Accordingly, the Commission now finds the net worth of the Corporation on October 13, 1960 to have been \$782,531.46.

The By-Laws of the company provide that the common stock shall be entitled to participate in distributable profits after the due and prior payment of fixed cumulative annual dividends payable on the preferred stock. Further, it is provided that the preferred stock shall earn a seven per cent fixed cumulative annual dividend, payable in quarterly installments.

The Commission has been informed by the Treasurer of Stevens & Thompson Paper Company under date of February 12, 1968, that the unpaid cumulative dividends on the preferred stock to August 31, 1960 were \$105,000.

Accordingly, the Commission finds that the preferred stockholders were entitled to distribution in the amount of \$642,200 (\$537,200 par value and \$105,000 accrued dividends), and that the amount distributable per each share of preferred stock was thus \$119.5457.

This left for distribution to the common stockholders, the amount of \$140,331.46 (\$782,531.46 less \$642,200) and the Commission finds that each share of common stock had a value of \$177.1861 on the date of loss.

Accordingly, the Commission concludes that claimant suffered a loss of \$8,859.31 within the scope of Title V of the Act.

The Commission has decided that in certifications 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 Lisle Corporation, Claim No. CU-0644.)

The following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

CU-1898

CERTIFICATION OF LOSS

The Commission certifies that ROBERT B. STEVENS 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 Eight Thousand Eight Hundred Fifty-nine Dollars and Thirty-one Cents (\$8,859.31) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

MAR 3 1971

Robert B. Stevens
Robert B. Stevens, Claimant
Robert B. Stevens
Robert B. Stevens, Claimant

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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.

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

IN THE MATTER OF THE CLAIM OF

ROBERT B. STEVENS

Claim No. CU -1898

Decision No. CU 2057

**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 \$4,498.00, was presented by ROBERT B. STEVENS, and is based upon the asserted loss of stock interests in Compania Comercial Bohon, S.A. (The Bohon Trading Corporation). Claimant has been a national of the United States since his 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.

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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership of 50 shares of common stock in The Bohon Trading Corporation of Cuba.

However, evidence of record discloses that by the terms of Article 12 of the By-Laws of The Bohon Trading Corporation, the common stock thereof would be entitled to participation in the corporate assets upon dissolution only after a deduction was made from such assets of the par value (\$100.00 per share) of the preferred stock. Further, the By-Laws provided that the common stock would also participate in the assets of the company available for distribution only after the due and prior payment of the fixed cumulative annual dividends payable on the preferred stock.

The Commission has found that, based upon all the evidence of record, at the time of loss the amount available for distribution among the 5,372 shares of preferred stock issued by The Bohon Trading Corporation, and having a total par value of \$537,200.00, was \$519,147.91. After application of this sum against the preferred shares outstanding, no funds were left for distribution among the shares of common stock in the company. (See Claim of Stevens & Thompson Paper Company, Claim No. CU-1542).

Since no funds or assets were left for distribution among the common stockholders, the Commission finds that claimant has failed to establish that the common stock of The Bohon Trading Corporation had any value on the date of loss. Claimant has therefore not shown that he sustained a loss which can be certified under Title V of the Act.

Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

3 JUL 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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).)

CU-1898