

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

IN THE MATTER OF THE CLAIM OF

ALMO RADIO COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2186

Decision No. CU-603

Counsel for claimant:

Nathan Teitelman, Esq.

ORDER AND AMENDED PROPOSED DECISION

By Proposed Decision dated November 15, 1967, the Commission certified a loss to this claimant in the amount of Two Hundred Thirty-Nine Dollars and Nineteen Cents (\$239.19) based upon its loss of payment for merchandise shipped to Cuba. The Proposed Decision was entered as the Commission's Final Decision on December 27, 1967. Subsequently, the Commission discovered additional evidence establishing that the claimant had shipped merchandise to another consignee in Cuba for which payment had not been received. Upon consideration of this matter, it is

ORDERED that the Final Decision be and the same is vacated and set aside, and the Proposed Decision is hereby amended.

The record contains a copy of claimant's invoice No. EX 3434 of March 18, 1959, reflecting the sale to Luis Alba Lopez of Las Villas, Cuba, of goods totalling \$160.69, as to which freight, shipping and other attendant fees increased the total to \$161.19; and a copy of his invoice No. EX 3934 of June 5, 1959, reflecting the sale to Luis Alba Lopez of Cuba of goods totalling \$77.50 and as to which freight, shipping and other fees increased the total to \$78.00, all as set out in the Proposed Decision of November 15, 1967.

Additionally, the record now contains copies of the following invoices evidencing the sales of merchandise to Television Service Company of Cuba, S. A., of Havana, Cuba:

<u>Invoice Number</u>	<u>Date</u>	<u>Amount</u>
EX-2242	June 3, 1958	\$ 6.12
A-84601	October 1, 1958	397.44
IA-7178	October 9, 1958	309.96
IA-7246	October 24, 1958	399.00
EX-2834	November 12, 1958	540.04

The total of the above shipments plus attendant fees is \$1,657.01. However, claimant indicates, and the record shows, that two partial payments of \$150.00 each were received on this account, leaving an unpaid balance of \$1,357.01. Claimant states that it has not received any additional funds on any of the above shipments.

Accordingly, 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, totalling \$1,596.20 occurred on September 29, 1959, the date of Law 568.

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 date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

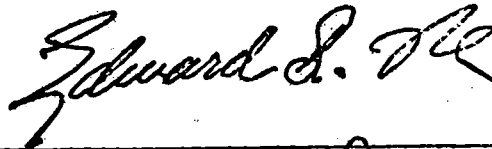
The certification of loss, as restated below, will be entered, and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

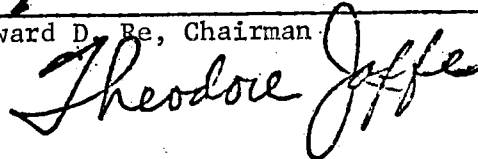
The Commission certifies that ALMO RADIO COMPANY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Five Hundred Ninety-Six Dollars and Twenty Cents (\$1,596.20) with interest thereon at 6% per annum from the date of loss to the date of settlement.

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

**FEB 14 1968**



Edward D. Re, Chairman



Theodore Jaffe, 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 Order and Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after 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).)

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

IN THE MATTER OF THE CLAIM OF

ALMO RADIO COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2186

Decision No. CU 603

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 ALMO RADIO COMPANY in the amount of \$239.19 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) of the Act defines the term "national of the United States" as "(B) 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."

The claimant corporation is incorporated in Pennsylvania. An officer of the corporation certified that at all times between February, 1947, and the presentation of this claim on April 20, 1967, all of the shares of stock were held by one person who is a citizen of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record contains a copy of claimant's invoice No. EX3434 of March 18, 1959, reflecting the sale to Luis Alba Lopez of Las Villas, Cuba, of goods totalling \$160.69, as to which freight, shipping and other attendant fees increased the total to \$161.19; and a copy of his invoice No. EX3934 of June 5, 1959, reflecting the sale to Luis Alba Lopez of Cuba of goods totalling \$77.50 and as to which freight, shipping and other fees increased the total to \$78.00. 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 the Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019; and the 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 September 29, 1959 as to \$239.19 the date of Law 568.

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 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 ALMO RADIO 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 Two Hundred Thirty-Nine Dollars and Nineteen Cents (\$239.19) with interest thereon at 6% per annum from the date of loss to the date of settlement.

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

NOV 15 1967

*Edward D. Re*  
Edward D. Re, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*Lavern R. Dilweg*  
Lavern R. Dilweg, Commissioner

*W. M. Anderson*  
W. M. Anderson  
Secretary of the Commission

CERTIFICATION  
A true and correct copy of the  
Proposed Decision which was entered on this  
date of NOV 15 1967

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).)