

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

IN THE MATTER OF THE CLAIM OF

ALBERT E. CARBALLOSA NIEVES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -8234

Decision No. CU
3018

Counsel for claimant:

James F. Pollack, Esquire

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 \$6,375.51, was presented by ALBERT E. CARBALLOSA NIEVES, and is based upon the asserted loss of payment due him for machinery or parts shipped to a Cuban enterprise. Claimant has been a national of the United States since his naturalization on November 14, 1945.

Under Title V of the International Claims Settlement Act of 1949, as amended, [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 extensive correspondence which establishes that claimant acted as buyer and shipper of diesel motors and replacement parts for Motores Y Repuestos, S.A., of Havana, Cuba. Claimant purchased merchandise for the Havana company and was usually reimbursed by the company upon receipt of the shipping documents. The record contains correspondence and the sworn statement of the former General Manager of Motores Y Repuestos, S.A., who states that the corporation owed a total of \$6,375.51 to claimant on past shipments; that this would have been paid to claimant but permission to make dollar reimbursement through local banking facilities could not be obtained; and that the Motores Y Repuestos, S.A. was thereafter nationalized by the Government of Cuba.

The record discloses that Motores Y Repuestos, S.A. was nationalized by the Government of Cuba in February 1962. Consequently, in the absence of evidence to the contrary, the Commission finds that the loss occurred on February 28, 1962, amounting to \$6,375.51, as a result of the actions of the Government of Cuba, and concludes that the claimant suffered a loss in the amount of \$6,375.51 within the meaning of Title V of the Act.

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.)

The Commission therefore concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$6,375.51 from February 28, 1962, to the date on which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ALBERT E. CARBALLOSA NIEVES suffered a loss, as a result of the 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 Three Hundred Seventy-five Dollars and Fifty-one Cents (\$6,375.51) with interest thereon at 6% per annum from February 28, 1962 to the date of settlement.

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

SEP 11 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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).)