

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

IN THE MATTER OF THE CLAIM OF

PRESS WIRELESS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8290

Decision No. CU 5730

Counsel for claimant:

Covington & Burling
by Stanley L. Temko, 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 \$72,797.00, was presented by PRESS WIRELESS, INC. based upon the asserted loss of a debt due from a Cuban enterprise.

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)(B) of the Act defines the term "national of the United States" as 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 record shows and the Commission finds that at all times since December 31, 1958 more than 50 per centum of the outstanding capital stock of claimant, a Delaware corporation, was owned by United States nationals. Since 1965, all of claimant's outstanding capital stock has been owned by American Cable and Radio Corporation, a Delaware corporation wholly-owned by International Telephone and Telegraph Corporation. Commission records reflect that as of August 6, 1960, 7.319% of the shares of International Telephone and Telegraph stock outstanding was held by or for the account of aliens. (See Claim of International Telephone and Telegraph Corporation, Claim No. CU-2615.) The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claim is made herein for the amount of \$72,797.00 which is asserted to be the balance due and owing claimant from Inalambrica de Prensa de Cuba, S.A. (Press Wireless of Cuba, S.A.). In support of the claim, claimant has submitted a balance sheet of Inalambrica de Prensa de Cuba, S.A. dated December 31, 1961 and an affidavit of a former accountant of International Telephone and Telegraph Corporation.

On the basis of all the evidence of record, the Commission finds that on December 31, 1961, Inalambrica de Prensa de Cuba, S.A. was indebted to claimant in the amount of \$72,797.24 for the use of its communication facilities and services.

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 debtors. 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 Etna Pozzolana Corporation, Claim No. CU-0049, 1967 FCSC Ann. Rep. 46.)

Accordingly, the Commission finds that the unpaid account in the amount of \$72,797.24 was lost as a result of the intervention by the Government of Cuba, and that in the absence of evidence to the contrary such loss occurred on December 31, 1961.


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.

CERTIFICATION OF LOSS

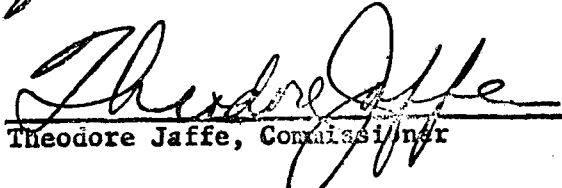
The Commission certifies that PRESS WIRELESS, INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of **Twenty-two Thousand Seven Hundred Ninety-seven Dollars and Twenty-four Cents** (\$72,797.24) with interest at 6% per annum from December 31, 1961 to the date of settlement.

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

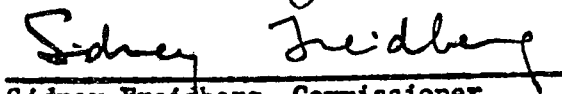
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Lyle S. Garlock, Chairman



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).)