

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

IN THE MATTER OF THE CLAIM OF

MANUEL VALLADARES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0006

Decision No. CU -28

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$3,533.65 was presented by MANUEL VALLADARES based upon the asserted loss of payment for merchandise shipped to Cuba. Claimant has been a national of the United States since his naturalization on June 26, 1933.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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 contains copy of claimant's invoice No. 6804 of September 1, 1956 reflecting the sale to "Gonzalez & Cia." of Havana, Cuba, of goods totalling \$2,241.20, as to which freight, shipping and other attendant fees increased the total to \$2,404.06; and copy of his invoice No. 6809 of September 20, 1960 reflecting the sale to "Papeleria Suarez Gutierrez y Cia." of Cuba, of goods totalling \$1,034.40 and as to which freight, shipping and other fees increased the total to \$1,129.59.

Additionally, the record includes a letter of September 13, 1960, from the Banco Continental Cubano, to claimant, in which it is stated that the collection of \$2,404.06 was paid by the consignee (Gonzalez & Cia.), and that the Banco Continental Cubano was still awaiting a dollar reimbursement release from the Currency Stabilization Fund, a Cuban Government agency; and another letter dated October 3, 1960 from said Banco Continental Cubano, to claimant, stating that the collection of \$1,129.59 was paid by the consignee (Papeleria Suarez Gutierrez & Cia.), and that the Bank was awaiting similar authorization from the Currency Stabilization Fund. Claimant states that he 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 transfers of funds, in this and similar cases, 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 In the Matter of the Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019.)

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 14, 1960 as to \$2,404.06, and on October 3, 1960, as to \$1,129.59, the days after the collections were acknowledged by the Banco Continental Cubano.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of American Cast Iron Pipe Company, FCSC Claim No. CU-0249).

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 dates on which the loss occurred, to the date on which provisions are made for the settlement thereof, as follows:

\$2,404.06 from September 14, 1960

\$1,129.59 from October 4, 1960.

CERTIFICATION OF LOSS

The Commission certifies that MANUEL VALLADARES 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 Three Thousand Five Hundred Thirty-three Dollars and Sixty-five Cents (\$3,533.65) 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

DEC 7 1966

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 20 days after service or receipt of notice of this Proposed Decision upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) (1964))

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 9 1967

Francis Masterson
Clerk of the Commission