

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

IN THE MATTER OF THE CLAIM OF

WILLIAM H. WEINMAN, JR.
D/B/A WEINMAN ENGINEERING

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0119

Decision No. CU

224

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 WILLIAM H. WEINMAN, JR., D/B/A WEINMAN ENGINEERING in the amount of \$4,008.04 based upon the asserted loss of payment for merchandise shipped to Cuba. Claimant has been a national of the United States since his birth in Hamilton, Ohio on September 6, 1914.

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 503(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 evidence which reflects that claimant was doing business as WEINMAN ENGINEERING, an enterprise located in Hamilton, Ohio.

The record also contains copy of WEINMAN ENGINEERING's invoice No. 1299 of January 3, 1959 reflecting the sale to Fundicion Macfarlane, S.A. of Sagua La Grande, Cuba, of goods totalling \$3,698.00; and copy of invoice No. 1301 of January 10, 1959 reflecting certain freight, shipping and other fees pertaining to the aforementioned sale in the amount of \$310.04.

Additionally, the record includes letters to Fundicion Macfarlane, S. A. from claimant under dates of March 7, March 21, and April 14, 1959 in which it is stated that certain invoices, including those for which claim is herein made, are past due and requesting payment. The record also contains a response to these letters from Fundicion Macfarlane, S. A., dated April 22, 1959, which acknowledges its pending account with claimant and promises payment, as requested, as soon as authorization therefor is received from Banco Nacional de Cuba. 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 \$4,008.04, the date Cuban Law 568 was published.

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).

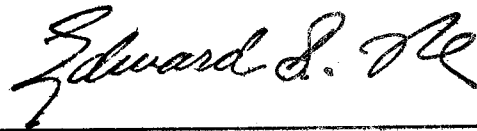
Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

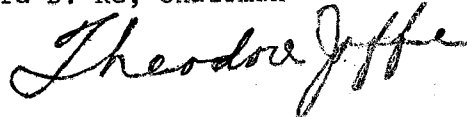
The Commission certifies that WILLIAM H. WEINMAN, JR., D/B/A WEINMAN ENGINEERING suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount Four Thousand Eight Dollars and Four Cents (\$4,008.04) 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

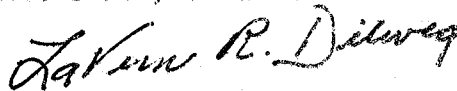
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner

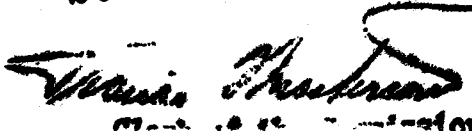


Lavern R. Dilweg, Commissioner

~~CERTIFICATION~~

**is a true and correct copy of the decision
The Commission has entered as the final
decision on**

SEP 5 1967



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. 412-13 (1967).)