

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

IN THE MATTER OF THE CLAIM OF

ROBURN AGENCIES, INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0127

Decision No. CU

368

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 ROBURN AGENCIES, INC. in the amount of \$35,460.97 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."

An officer of the claimant corporation has certified that the claimant was organized in New York and that at all times between 1935 and presentation of this claim on June 25, 1965, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act. Claimant states that all of its four stockholders are United States nationals.

The record contains copies of claimant's invoices reflecting the sale of goods to various consignees in Cuba as follows:

<u>Consignee</u>	<u>Invoice No. and Date</u>	<u>Price of Goods</u>	<u>Freight Shipping Other Attendant Fees</u>	<u>Total</u>
Eusebio Garcia Oliva	B-1423 October 7, 1959	\$2,469.20	\$3.60	\$2,472.80
Eusebio Garcia Oliva	B-1677 October 28, 1959	1,530.99	8.90	1,539.89
Eusebio Garcia Oliva	B-1925 November 22, 1959	334.00	.20	334.20
Bernardo Barrie	B-2136 November 30, 1959	529.85	2.05	531.90
M.E. Flores	B-1913 November 11, 1959	554.80	2.07	556.87
Cia Impor- tadora Radio City S.A.	B-1528 October 16, 1959			903.10

<u>Consignee</u>	<u>Invoice No. and Date</u>	<u>Price of Goods</u>	<u>Freight Shipping Other Attendant Fees</u>	<u>Total</u>
Cia Importadora Radio City S.A.	B-1778 November 2, 1959	\$ 841.96	\$ 5.20	\$ 847.16
Cia Importadora Radio City S.A.	B-1885 November 10, 1959	313.80		313.80
Cia Importadora Radio City S.A.	B-2154 December 1, 1959	968.44		968.44
Secundino Corstas	B-1015 September 1, 1959	934.23	3.87	938.10
Secundino Corstas	B-1255 September 22, 1959	674.22	2.68	676.90
Independent Electric Co. of Cuba S.A.	A-5045 May 21, 1959	1,286.30 (one half was paid)		643.15 (balance)
Independent Electric Co. of Cuba S.A.	A-5143 May 28, 1959	2,929.10 (one half was paid)		1,464.55 (balance)
Independent Electric Co. of Cuba S.A.	A-5420 June 19, 1959	3,426.97		3,426.97
Legrelle Mesa y Cia	B-1734 October 30, 1959	377.10	1.57	378.67
Legrelle Mesa y Cia	B-2135 November 27, 1959	318.00	3.40	321.40
Casa Amadeo (Jose Prashnik)	B-1734 October 30, 1959	362.28	2.35	364.63
Casa Amadeo (Jose Prashnik)	B-2314 December 14, 1959	951.87	5.64	957.51
Productos Electronicos S.A.	B-1123 September 15, 1959	866.78	3.82	870.60
Productos Electronicos S.A.	B-1873 November 9, 1959	507.82	2.24	510.06
Productos Electronicos S.A.	B-2319 December 14, 1959	645.98	2.68	648.66

<u>Consignee</u>	<u>Invoice No. and Date</u>	<u>Price of Goods</u>	<u>Freight Shipping Other Attendant Fees</u>	<u>Total</u>
Isaac Rachman	B-2252 December 8, 1959	\$1,908.72	\$ 1.95	\$1,910.67
Radio Azcue	B-1334 September 30, 1959	308.17	2.26	310.43
Radio Azcue	B-2199 December 3, 1959	603.11	2.62	605.73
Tele-Radio	B-1974 November 16, 1959	790.29	101.68	891.97
Juan Jimenez Tejera (Radio Mundo)	A-5899 July 23, 1959	980.48	11.00	991.48
Juan Jimenez Tejera (Radio Mundo)	B-1040 September 4, 1959	1,500.01	92.58	1,592.59
Juan Jimenez Tejera (Radio Mundo)	B-2318 December 14, 1959	2,147.70	132.30	2,280.00

Additionally, the record includes letters from the claimant's various collecting banks and agents in Cuba to the claimant in which it is stated that the consignees enumerated above had paid the various amount owing on the above-mentioned shipment, in Cuban currency and that the collecting banks and agents were still awaiting a dollar reimbursement release from the Currency Stabilization Fund, a Cuban Government agency, as follows:

<u>Consignee</u>	<u>Amount Collected</u>	<u>Collecting Agent</u>	<u>Date Collection Acknowledged</u>
Eusebio Garcia Oliva	\$2,472.80	Banco Continental Cubano	March 10, 1960
Eusebio Garcia Oliva	1,539.89	Banco Continental Cubano	March 10, 1960
Eusebio Garcia Oliva	334.20	Banco Continental Cubano	March 2, 1960
Bernardo Barris	531.90	Banco Continental Cubano	March 29, 1960
M.E. Flores	556.87	Banco Continental Cubano	March 17, 1960

<u>Consignee</u>	<u>Amount Collected</u>	<u>Collecting Agent</u>	<u>Date Collection Acknowledged</u>
Cia Importadora Radio City S. A.	\$ 903.10	The Royal Bank of Canada	March 9, 1960
Cia Importadora Radio City S. A.	847.16	The Royal Bank of Canada	March 16, 1960
Cia Importadora Radio City S. A.	313.80	The Royal Bank of Canada	February 23, 1960
Cia Importadora Radio City S. A.	968.44	The Royal Bank of Canada	March 31, 1960
Secundino Costas	938.10	Banco Continental Cubano	December 22, 1959
Secundino Costas	676.90	Banco Continental Cubano	January 7, 1960
Independent Electric Co. of Cuba S. A.	643.15	Banco Continental Cubano	December 31, 1959
Independent Electric Co. of Cuba S. A.	1,464.15	Banco Continental Cubano	December 31, 1959
Independent Electric Co. of Cuba S. A.	1,713.48	Banco Continental Cubano	January 5, 1960
Independent Electric Co. of Cuba S. A.	1,713.49	Banco Continental Cubano	January 15, 1960
Legrelle Niesa y Cia	378.67	Banco De La Construccion	July 29, 1960
Casa Amadeo Jose Prashnik	364.63	Banco Continental Cubano	February 2, 1960
Casa Amadeo Jose Prashnik	957.51	Banco Continental Cubano	February 1, 1960
Productos Electricos S. A.	870.60	Banco Nunez	March 25, 1960
Productos Electricos S. A.	510.06	Banco Nunez	March 25, 1960
Productos Electricos S. A.	648.66	Banco Nunez	October 17, 1960

<u>Consignee</u>	<u>Amount Collected</u>	<u>Collecting Agent</u>	<u>Date Collection Acknowledged</u>
Isacc Rachman	\$ 1,910.67	Banco Continental Cubano	April 11, 1960
Radio Azcue	310.43	The Royal Bank of Canada	March 10, 1960
Radio Azcue	605.73	The Royal Bank of Canada	July 25, 1960
Tele-Radio	891.97	Juan Cabanas Solis	January 22, 1960
Juan Jimenez Tejera (Radio Mundo)	991.48	Banco Continental Cubano	October 6, 1960
Juan Jimenez Tejera (Radio Mundo)	1,592.59	Banco Continental Cubano	October 6, 1960
Juan Jimenez Tejera (Radio Mundo)	2,280.00	Banco Continental Cubano	October 6, 1960

In all of the above-mentioned collections, claimant states 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 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 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 the days after the collections were acknowledged by the Cuban collecting agents as follows:

On December 23, 1959	as to	\$ 938.10
On January 1, 1960	as to	2,107.70
On January 6, 1960	as to	1,713.48
On January 8, 1960	as to	676.90
On January 16, 1960	as to	1,713.49
On January 23, 1960	as to	891.97
On February 2, 1960	as to	957.51
On February 3, 1960	as to	364.63
On February 24, 1960	as to	313.80
On March 3, 1960	as to	334.20
On March 10, 1960	as to	903.10
On March 11, 1960	as to	4,323.12
On March 17, 1960	as to	847.16
On March 18, 1960	as to	556.87
On March 26, 1960	as to	1,380.66
On March 30, 1960	as to	531.90
On April 1, 1960	as to	968.44
On April 12, 1960	as to	1,910.67
On July 26, 1960	as to	605.73
On July 30, 1960	as to	378.67
On October 7, 1960	as to	4,864.07
On October 18, 1960	as to	648.66

A portion of this claim is based on the loss of payment for merchandise shipped to Utinsilios Domesticos S. A., Havana, Cuba. Claimant states that it was necessary to put this matter into the hands of a lawyer and a court settlement was made whereby Utinsilios Domesticos S. A. made a down payment and was to pay the balance in monthly installments. Claimant further states that the matter was turned over to a collecting agency and has submitted a letter dated August 16, 1960 from the Asociacion De Profesionales De Credito De Cuba to claimant wherein it is stated that the collecting agency had already collected \$1,030.07 from Utinsilios Domesticos S. A. and that \$5,277.26 was still pending for collection.

Additionally, the record contains a letter to the claimant dated June 7, 1961 from the New York branch of Asociacion De Profesionales De Credito De Cuba stating that the Cuban branch of the collecting agency had been taken over by the Cuban Government and was no longer in existence.

Accordingly, the Commission finds that as a result of intervention of the Government of Cuba claimant suffered a loss of \$6,307.33, the amount owed by Utinsilios Domesticos S. A. and that in the absence of evidence to the contrary as to \$1,030.07, the amount collected by the Cuban collecting agency, the loss occurred on August 17, 1960, the day after the collection was acknowledged by the collecting agency and as to \$5,277.07, the amount uncollected by the Cuban collecting agency the loss occurred on June 8, 1961, the day after the claimant was informed that the collection agency had been taken over by the Cuban Government.

The Commission has decided that in payment of 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 Lisle Corporation, FGSC 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 dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

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CERTIFICATION OF LOSS

The Commission certifies that ROBURN AGENCIES, 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 Thirty Four Thousand Two Hundred Thirty-Eight Dollars and Sixteen Cents (\$34,238.16) 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

OCT 4 1967

*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 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).)

COPIES

**This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on 6 NOV 1967**

CU-0127

*Thomas M. ...*  
Staff of the Commission