

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

IN THE MATTER OF THE CLAIM OF

CENTRAL NATIONAL CORPORATION
CENTRAL NATIONAL COMMERCIAL COMPANY, INC.

Claim No. CU-0152
CU-0153

Decision No. CU - 776

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants: Lehman, Goldmark, Rohrllich & Solomon
PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by the CENTRAL NATIONAL CORPORATION and the CENTRAL NATIONAL COMMERCIAL COMPANY, INC., in the amounts of \$54,695.57 and \$117,483.04 respectively, and are based upon the asserted loss of payment for merchandise shipped to various customers in 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."

Officers of the claimant corporations have certified that the claimants were organized in the State of New York and that at all times between the respective dates of loss and presentation of these claims on June 30, 1965, more than 50% of the outstanding capital stock of the claimant corporations has been owned by nationals of the United States. The Commission holds that claimants are nationals of the United States within the meaning of Section 502(1)(B) of the Act.

The evidence of record discloses that the CENTRAL NATIONAL COMMERCIAL COMPANY, INC., is a wholly owned subsidiary of CENTRAL NATIONAL CORPORATION; that all of the shares of outstanding stock of CENTRAL NATIONAL CORPORATION were held by 31 persons, including 26 persons who own all of the outstanding shares of stock of Gottesman & Company, Inc., a New York corporation, and 4 additional stockholders; and that all of the individual stockholders of Gottesman & Company, Inc., and the 4 remaining stockholders of CENTRAL NATIONAL CORPORATION are United States citizens. Thus, the evidence of record discloses that all of the stockholders of claimant corporations were nationals of the United States, both on the asserted dates of loss, and when the instant claims were filed.

The record includes copies of correspondence from banks, agents of the claimants, consignee business enterprises in Cuba, copies of invoices, and other data concerning shipments of merchandise to Cuban business firms, listed hereafter as the consignees. This evidence discloses that the purchase price of the goods and accompanying charges for such shipments were, in many instances, paid by the consignees to local Cuban banks; and that the dollar

reimbursement releases or authorization were never granted by Cuban government-
al officials. Other drafts for shipments made by claimants were not paid to
the collecting bank by the consignee. Claimants state that they have
not received any of the funds for such shipments.

There follows hereafter data concerning the shipments made to Cuban con-
signees, including information on paid and unpaid drafts, with the
dates on which payments were acknowledged or dates when the unpaid drafts
were due and payable. (The listed amounts are net after adjustment or credit):

I. CENTRAL NATIONAL CORPORATION

<u>Invoice date and Number</u>	<u>Consignee</u>	<u>Due date of un- paid drafts</u>	<u>Date of Payment or acknowledgment</u>
January 3, 1959 59-852	Papelera Trebus, S.A.	---	\$ 815.27 (April 27, 1960)
December 1, 1959 59-836	Envases Industriales y Comerciales, S.A.	\$34,530.06 (January 7, 1960)	
December 1, 1959 59-837	Envases Industriales y Comerciales, S.A.	\$19,350.24 (January 7, 1960)	
	TOTAL:	\$54,695.57	

II. CENTRAL NATIONAL COMMERCIAL COMPANY, INC.:

<u>Invoice date and Number</u>	<u>Consignee</u>	<u>Due date of un- paid drafts</u>	<u>Date of Payment or acknowledgment</u>
September 2, 1959 No. 6688	Litografica de Cuba	---	\$ 1,236.10 (December 9, 1959)
September 22, 1959 No. 6738	Litografica de Cuba	\$ 2,098.01 (January 13, 1960)	
November 25, 1959 No. 6911	Litografica de Cuba	\$14,344.78 (March 10, 1960)	
August 13, 1959 No. 6640	Papelera Crespo, S.A.	\$ 2,449.03 (November 29, 1959)	
December 3, 1959 No. 6896	Papelera Rio Verde		\$ 6,884.90 (December 18, 1959)
July 23, 1959 No. 6577	Bohon Trading Corp.	\$ 9,757.93 (September 29, 1959)	
October 19, 1959 No. 6799	Bohon Trading Corp.	\$ 9,400.00 (December 29, 1959)	
December 21, 1959 No. 6981	Bohon Trading Corp.		\$ 418.88 (January 21, 1960)

<u>Invoice date and Number</u>	<u>Consignee</u>	<u>Due date of un- paid drafts</u>	<u>Date of Payment or acknowledgment</u>
November 10, 1959 No. 6873	Standard Cap & Seal		\$12,627.14 (January 23, 1960)
September 30, 1959 No. 6757	Barros Gomez & Cia.		\$ 609.83 (April 12, 1960)
October 8, 1959 No. 6783	Ferran y Vilar		\$ 610.39 (March 2, 1960)
November 30, 1959 No. 6916	Ferran y Vilar		\$ 6,577.52 (June 15, 1960)
November 30, 1959 No. 6919	Ferran y Vilar		\$ 6,706.36 (September 22, 1960)
November 30, 1959 No. 6923	La Moderna, S. A.		\$ 2,964.15 (April 4, 1960)
September 30, 1959 No. 6754	Montesinos & Cia.		\$ 5,076.04 (January 11, 1960)
June 30, 1959 No. 6511	Oriental Cartonera	\$16,731.52 (September 22, 1959)	
June 30, 1959 No. 6511	Oriental Cartonera	\$16,731.52 (October 22, 1959)	
April 24, 1958 No. 5335	Gimeno & Cia.	\$ 654.37 (July 21, 1958)	
April 24, 1958 No. 5335	Gimeno & Cia.	\$ 1,604.57 (August 20, 1958)	
TOTAL: \$117,483.04			

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 claimants, 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 claims, the Commission finds that the subject accounts receivable were lost as a result of intervention by the Government of Cuba, and that in the absence of evidence to the contrary, such losses occurred on the respective maturity dates with regard to unpaid drafts maturing after September 29, 1959. However, with respect to the dates of loss as to those goods sold to Oriental Cartonera (Invoice No. 6511) and Gimeno & Cia. (Invoice No. 5335), prior to September 29, 1959, the Commission finds that the losses occurred on September 29, 1959, the effective date of Law 568. The Commission further finds that in those instances in which payments were made by Cuban consignees, the losses occurred on the days after payments were made to the Cuban banks, where ascertained, or the days after notification of payments were made to claimant corporations.

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 dates of loss to the date of settlement (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the losses arising from shipments of goods to Cuban consignees shall be increased by interest thereon at the rate of 6% per annum from the dates on which the losses occurred, to the date on which provisions are made for the settlement thereof, as follows:

I. CENTRAL NATIONAL CORPORATION:

On \$53,880.30 from January 7, 1960

On 815.27 from April 28, 1960

II. CENTRAL NATIONAL COMMERCIAL COMPANY, INC.:

On \$28,748.19 from September 29, 1959
On 16,731.52 from October 22, 1959
On 2,449.03 from November 29, 1959
On 1,236.10 from December 9, 1959
On 9,400.00 from December 29, 1959
On 5,076.04 from January 11, 1960
On 609.83 from April 12, 1960
On 2,098.01 from January 13, 1960
On 418.88 from January 21, 1960
On 12,627.14 from January 23, 1960
On 610.39 from March 2, 1960
On 6,884.90 from December 18, 1959
On 14,344.98 from March 10, 1960
On 6,577.52 from June 15, 1960
On 2,964.15 from April 4, 1960
On 6,706.36 from September 22, 1960

CERTIFICATION OF LOSS

The Commission certifies that CENTRAL NATIONAL CORPORATION 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 Fifty-Four Thousand Six Hundred Ninety-Five Dollars and Fifty-Seven Cents (\$54,695.57), with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and,

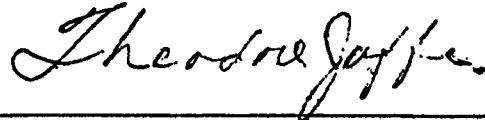
The Commission also certifies that CENTRAL NATIONAL COMMERCIAL COMPANY, INC., suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Seventeen Thousand Four Hundred Eighty-Three Dollars and Four Cents (\$117,483.04), 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

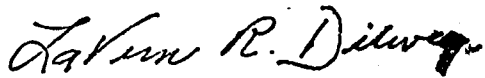
6 DEC 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



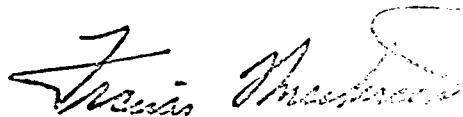
LaVern R. Dilweg, Commissioner

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).)

CLASSIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 12 9 1967 CU-0152 and CU-0153



Clerk of the Commission