

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

IN THE MATTER OF THE CLAIM OF

CLAIR M. ELSTON AND THE
CONNECTICUT BANK AND TRUST
COMPANY, TRUSTEES OF
THE COLLINS COMPANY
STOCKHOLDERS TRUST

Claim No. CU -0235

Decision No. CU 688

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Robinson, Robinson & Cole
by: Elliott C. Miller, Esq.

PROPOSED DECISION

This claim as amended against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by CLAIR M. ELSTON AND THE CONNECTICUT BANK AND TRUST COMPANY, TRUSTEES OF THE COLLINS COMPANY STOCKHOLDERS TRUST in the amount of \$35,579.99 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 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.

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."

Mr. L. B. Hough, the former Secretary of The Collins Company has certified that the corporation was organized on January 1, 1925, under the laws of the State of Connecticut. The former President of the Company, Clair M. Elston, and present trustee has certified that at all times between January 1, 1925 and presentation of this claim on July 15, 1965, over 50% of the outstanding capital stock of The Collins Company has been owned by United States nationals. Mr. L. B. Hough, the former Secretary of the corporation, has certified that all of the stockholders of The Collins Company as of November 1, 1965 were citizens of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

On September 14, 1966, the directors and shareholders of The Collins Company issued a Certificate of Dissolution which was adopted at the annual meeting of the stockholders of The Collins Company held on July 28, 1966. Clair M. Elston and The Connecticut Bank and Trust Company were appointed the trustees for the dissolved corporation.

The record contains copies of the accounts receivable ledger cards of claimant corporation which reflects the following outstanding accounts for goods sold to Cuban consignees during 1959 and 1960 in the aggregate amount of \$35,579.99.

<u>Consignee</u>	<u>Amount</u>
Aspuru & Cia, S.A.	\$1,906.20
Belleau Y Hno Vda De	810.31
Castro S En C Guillermo	1,024.71
Castro Y Cia	199.13
Consolidated Railroads of Cuba	556.38
Cunado G. Francisco	1,898.40
Ferreteria El Aguila, S.A.	2,225.53
Ferreteria Bilbao Garay, S.A.	179.38
Gonzalez Del Rio Arioro Perez	1,463.03
Gonzalez Marina Y Cia Vda De	528.15
Gonzalez R Salvador	1,140.25
Hnos Shapiro Y Cia	1,300.98
Hijos De Pio Ferro, S.A.	3,138.88
Hormachea, S.A.	1,093.96
Landrove Manuel	1,738.28
Matamales Hno Y Cia L	811.14
Mercade & Cia S Enc V	14,360.40
Soto Rodriguez Y Cia	1,204.88

Claimant states that it has not received the funds and that these accounts were charged off as a loss on their books as of June 1, 1961.

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 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

<u>On</u>	<u>As To</u>
September 29, 1959 (the date law 568 was published)	\$ 2,812.98
December 9, 1959	14,360.40
December 17, 1959	1,300.98
December 22, 1959	1,898.40
December 23, 1959	1,093.96
December 30, 1959	1,906.20
January 5, 1960	1,204.88
January 19, 1960	2,148.80
February 4, 1960	1,621.45
February 17, 1960	2,225.53
February 19, 1960	3,138.88
August 3, 1960	1,668.40
December 20, 1960	199.13

the date payment on the above accounts became due.

The Commission has decided that in the 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

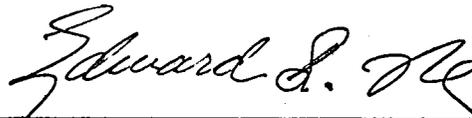
Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

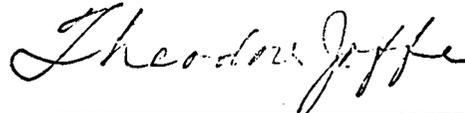
The Commission certifies that CLAIR M. ELSTON AND THE CONNECTICUT BANK AND TRUST COMPANY, TRUSTEES OF THE COLLINS COMPANY STOCKHOLDERS TRUST suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Five Thousand Five Hundred Seventy-Nine Dollars and Ninety-Nine Cents (\$35,579.99) 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

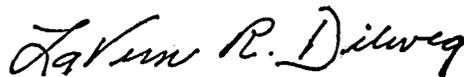
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Edward D. Re, Chairman



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).)