

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

IN THE MATTER OF THE CLAIM OF

THE KARPARK CORPORATION

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0272

Decision No. CU  
3574

Counsel for claimant:

Warren E. Miller, Esq.

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 THE KARPARK CORPORATION, in the amount of \$686,545.13, based upon debts owed by the Government of 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)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under 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.

The record shows that claimant was organized under the laws of Delaware and that at all pertinent times all of claimant's outstanding capital stock was owned by The Herschede Hall Clock Company, a corporation organized under the laws of Ohio. An authorized officer has certified that more than 50% of the outstanding capital stock of the parent corporation was owned by nationals of the United States at all pertinent times. Another officer has certified under date of January 10, 1967 that all of the stockholders of the parent corporation are nationals 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.

The record shows that the Cuban Parkmeter Corporation, a Cuban entity, was authorized to represent claimant in connection with the sale of parking meters to an agency of the Government of Cuba. As a result of negotiations between claimant's Cuban agent and the Cuban Government agency, 7,000 parking meters were delivered to Cuba over a period of time. Claimant and its Cuban agent also furnished the Cuban Government with assistance in maintaining the equipment in proper working order.

The evidence includes copies of contracts between claimant's agent and the Cuban Government agency, copies of the unpaid notes executed by the Cuban Government agency in favor of claimant's agent and endorsed over to claimant, affidavits, statements and other related documents evidencing the amount of the unpaid debts owed by Cuba to claimant. An examination of the

notes, all of which bore interest at the rate of 6% per annum from the respective dates of the notes, and the related evidence of record, discloses that nine shipments of parking meters, delivered to the Government of Cuba in 1957 and 1958, constituted the principal amount of the unpaid debt of Cuba for which claim is made, as follows:

<u>Shipment No.</u>	<u>Dates of Notes</u>	<u>Face Amount of Notes</u>
1	February 15, 1957	\$ 4,612.00
2	February 25, 1957	6,991.00
3	March 18, 1957	17,772.00
4	April 30, 1957	48,723.00
5	October 11, 1957	79,726.00
6	November 29, 1957	84,155.00
7	December 30, 1957	84,155.00
8	February 14, 1958	88,584.00
9	March 26, 1958	<u>106,300.00</u>
	Total	<u>\$ 521,018.00</u>

In an affidavit, dated March 9, 1964, the president of the Cuban corporation that acted as claimant's agent, stated, in effect, that he was unable to continue representing claimant as of December 28, 1960 when he was compelled to leave Cuba. The record shows no action with respect to the payment of these obligations by the Government of Cuba after that date.

The Commission has found that the failure of the Government of Cuba to make an obligated payment for the first time after January 1, 1959 gave rise to a claim under Title V of the Act. (See Claim of Clemens R. Maise, Claim No. CU-3191.) The Commission therefore finds that claimant sustained a loss within the meaning of Title V of the Act on December 28, 1960.

The Commission further finds that the aggregate amount of claimant's loss on December 28, 1960 was \$616,927.33 representing \$521,018.00 in principal and interest to December 28, 1960 in the amount of \$95,909.33.

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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that THE KARPARK 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 Six Hundred Sixteen Thousand Nine Hundred Twenty-seven Dollars and Thirty-three Cents (\$616,927.33) with interest thereon at 6% per annum from December 28, 1960 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

**MAR 26 1969**

*Leonard v. B. Sutton*  
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Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
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Theodore Jaffe, Commissioner

*Sidney Freidberg*  
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Sidney Freidberg, 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).)