

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

IN THE MATTER OF THE CLAIM OF

W.B. SAUNDERS COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0300

Decision No. CU

403

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$3,052.01, was presented by W.B. SAUNDERS COMPANY and is based upon the asserted loss of books shipped on consignment to Cuba. The record includes statements by principal officers of claimant corporation which indicate that more than 50% of the outstanding capital stock of claimant was owned by United States nationals at pertinent times under the statute. Additionally, the record contains a statement by an officer of claimant that all of the outstanding capital stock of claimant is presently owned by United States nationals.

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 504 of the Act provides, as to ownership of claims, that

A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts that certain medical and technical books were shipped on consignment to Cuba and that these books were seized by Cuban authorities on July 12, 1961. Claimant has submitted a copy of a Consignment Sales Report dated July 12, 1961 reflecting shipments to an agent in Cuba of books with a cost value of \$3,052.01. The record also contains two letters by the Credit Management Association of Delaware Valley on behalf of claimant to the Department of State. These letters refer to a claim in the amount of \$102.50 against Dr. Jose A. Montes De Oca of Havana, Cuba, and do not appear to be related to the shipments on which the present claim is based. By Commission letter of July 11, 1966, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Claimant submitted a statement concerning its stockholders and a copy of its Certificate of Incorporation. By letter of July 21, 1966, the Commission requested evidence of the asserted seizure of the books. By letter of October 10, 1966 claimant

advised the Commission that it could secure a statement of an individual respecting the seizure and requested information as to the form in which the statement should be made. The Commission received no response to its reply dated October 11, 1966. On August 3, 1967 claimant was invited to submit the suggested evidence within 45 days from that date. By letter of August 8, 1967 claimant advised the Commission that it was no longer able to contact the person who had knowledge of the facts pertaining to the asserted seizure, and indicated that additional information would not be forthcoming.

The Commission finds that claimant has not met the burden of proof in that it has failed to establish that its property was nationalized, appropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

OCT 4 1967

CERTIFICATION
This is a true and correct copy of the decision of the Commission which was entered as the final decision on 8 NOV 1967
Frank M. ...
Member of the Commission

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).)