

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

IN THE MATTER OF THE CLAIM OF

SIDNEY SANDLER  
D/B/A THE VALSAN COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0324

Decision No. CU

**370**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was originally presented by SIDNEY SANDLER D/B/A THE VALSAN COMPANY in the amount of \$10,253.89 based upon the asserted loss of payment for merchandise shipped to Cuba. Thereafter, by letter of October 21, 1966, claimant submitted a detailed list of losses incurred which indicated that the amount of loss was \$10,291.39. Claimant, SIDNEY SANDLER has been a national of the United States from the date of his naturalization on December 13, 1923.

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.

The record contains copy of claimant's invoice No. 1387 of July 7, 1959 reflecting the sale to Hermanos Marin Sierra of Havana, Cuba of goods totalling \$405.13, as to which freight, shipping and other attendant fees increased the total to \$420.61; copy of his invoice No. 1394 of July 7, 1959 reflecting the sale to Commercial Auto Johnnie Rodriguez S.A. of Havana, Cuba of goods totalling \$555.80; copy of his invoice No. 1427 of September 29, 1959 reflecting the sale to Eduardo Santiago Paneque of Manzanillo, of Cuba of goods totalling \$1,811.40, as to which freight, shipping and other attendant fees increased the total to \$2,137.97; copy of his invoice No. 1427-1 of October 7, 1959 reflecting the sale to Eduardo Santiago Paneque of Cuba of goods totalling \$1,465.85, as to which freight, shipping and other attendant fees increased the total to \$1,710.75; copy of his invoice No. 1432 of August 31, 1959 reflecting the sale to Lopez y Leira of Havana, Cuba of goods totalling \$511.25; copy of his invoice No. 1458 of September 11, 1959 reflecting the sale to J. y Hernandez Muniz of Havana, Cuba of goods totalling \$1,466.31, as to which freight, shipping and other attendant fees increased the total to \$1,492.60; copy of his invoice No. 1499 of October 8, 1959 reflecting the sale to Accesories de Omnibus Carlos Mesa S.A. of Havana, Cuba of goods totalling \$96.80, as to which freight, shipping and other attendant fees increased the total to \$104.36; copy of his invoice No. 1528 of September 23, 1959 reflecting the sale to Pedro Martin Betancourt of Havana, Cuba of goods totalling \$334.15, as to which freight, shipping and other attendant fees increased the total to \$381.48; copy of his invoice No. 1553 of October 15, 1959 reflecting the sale to Eduardo Santiago Paneque of Manzanillo, Cuba of goods totalling \$133.50, as to which freight, shipping

and other attendant fees increased the total \$186.13; copy of his invoice No. 1577 of November 9, 1959 reflecting the sale to Eduardo Santiago Paneque of Cuba of goods totalling \$528.95, as to which freight, shipping and other attendant fees increased the total to \$631.31; and copy of his invoice No. 1566 of December 8, 1959 reflecting the sale to Laso, Zorrilla y. Cia. of Havana, Cuba of goods totalling \$3,088.05, as to which freight, shipping and other attendant fees increased the total to \$3,276.87.

The record contains copies of a series of advices from various banks respecting certain payments in pesos made by the Cuban debtors on drafts drawn against the aforementioned invoices. Claimant indicates that he has not received the funds, except for one half of the invoice amount with respect to invoice Nos. 1432 and 1458.

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 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, FGSC Claim No. CU-0019; and the Claim of Etna Pozzolana Corporation, FGSC 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 on October 24, 1959 as to \$420.61, the day after the time draft drawn against invoice No. 1387 matured; on November 13, 1959 as to \$555.80, the day after the draft related to invoice No. 1394 was paid; on October 24, 1959 and February 4, 1960 as to \$1,068.99 and \$534.49, the days after

two drafts related to invoice No. 1427 were paid; and on March 4, 1960, as to \$534.49, the day after the draft for the balance owing on invoice No. 1427 became due; on November 19, 1959 as to \$855.38, the day after one of the drafts related to invoice No. 1427-1 was paid, and on December 19, 1959 and January 19, 1960 as to \$427.69 and \$427.68, respectively, the days after the remaining two drafts related to invoice No. 1427-1 became due for payment; on January 5, 1960 as to \$255.62, the day after a draft for one-half the amount of invoice No. 1432 was paid; on November 25, 1959 as to \$746.30, the day after a draft for one half the invoice amount of invoice No. 1458 was paid; on April 22, 1960 as to \$104.36, the day after the draft related to invoice No. 1499 was paid; on December 20, 1959 as to \$381.48, the day the draft related to invoice No. 1528 became due for payment; on March 16, 1960 as to \$186.13, the day the draft related to invoice No. 1553 was paid; on November 27, 1959 as to \$315.66, the day after a draft for one-half the amount of invoice No. 1577 was paid, and on December 27, 1959 as to \$315.65, the day after the draft for the balance of this invoice became due for payment; and on February 12, 1960 as to \$3,276.87, the day after the draft related to invoice No. 1566 was paid.

The amount of claimant's loss as determined by the Commission, \$10,407.20, exceeds by \$115.81, the amount of loss asserted by claimant in his letter of October 21, 1966. A review of the losses claimed therein indicates that claimant listed invoice No. 1387 as amounting to \$304.80 whereas both the copy of the invoice and the related bank advice reflect an amount of \$420.61. The Commission, therefore, finds that the loss based on invoice No. 1387 is in the amount of \$420.61 and concludes that the total amount of claimant's loss is \$10,407.20.

The Commission has decided that in payment of losses on 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).

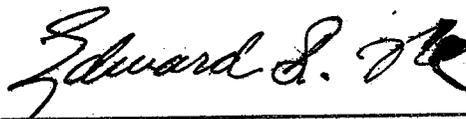
Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SIDNEY SANDLER D/B/A THE VALSAN COMPANY 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 Ten Thousand Four Hundred Seven Dollars and Twenty Cents (\$10,407.20) 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

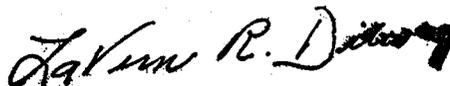
OCT 4 1967



Edward D. Re, Chairman

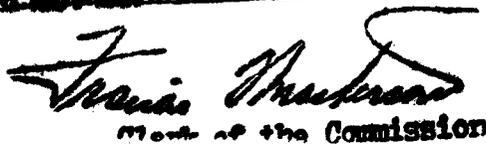


Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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



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).)