

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

IN THE MATTER OF THE CLAIM OF

SINGER PRODUCTS COMPANY, INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 0509

Decision No. CU - 4465

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 SINGER PRODUCTS COMPANY, INC. in the amount of \$43,557.55 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 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 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.

An officer of the claimant corporation has certified that the claimant was organized in New York and that at all pertinent times 100% of the outstanding capital stock of the claimant has been owned by Arthur A. Singer, a United States national. The record establishes that Arthur A. Singer has been a United States national since birth. 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 contains copies of claimant's invoices, bank letters and other evidence reflecting the sale of goods to various consignees in Cuba, and charges for freight, shipping and other attendant fees. Claimant states that it has not received the funds..

There follows a listing of items claimed by claimant, including the dates payments were due or were made to collecting banks:

<u>CONSIGNEE</u>	<u>AMOUNT</u>	<u>DATE DUE OR PAID TO BANK</u>
Pascual y Gomez	\$ 693.84	December 16, 1959
Eugenio Jimenez	575.00	July 13, 1959
Solor Motor, S.A.	1,520.01	January 11, 1960
Importadora del Campo, S.A.	849.62	February 26, 1960
Cia. Electrica Maspons, S.A.	277.43	January 1, 1959
	278.62	December 15, 1959
	1,046.74	May 11, 1960
	534.12	June 5, 1960
Distribuidora Autoportes	\$237.40	
Garbu, S.A. Less Credit	<u>209.81</u>	
	27.59	January 19, 1960

<u>CONSIGNEE</u>	<u>AMOUNT</u>	<u>DATE DUE OR PAID TO BANK</u>
Distribuidora Autoportes Garbu, S.A.	\$ 237.40	February 25, 1960
	856.41	May 9, 1960
	856.40	March 28, 1960
	315.04	April 13, 1960
	315.04	May 10, 1960
Gilberto Gonzalez Arenas	730.40	January 22, 1960
	730.41	February 22, 1960
M.E. Flores-Casa Lorena	558.09	January 25, 1960
Guerra & Pinera	412.70	January 26, 1960
	412.70	February 9, 1960
Sammy Stillman	1,002.34	November 23, 1959
Tel - Audio, S.A.	562.34	January 22, 1960
Plasticos Pelaez, S.A.	206.16	December 15, 1959
Cia. Rogelia Vocero	913.97	March 17, 1960
Cia. de Acc. de Ramos Y Almodovar	510.15	December 30, 1959
	510.14	February 15, 1960
Sonido y Proyeccion	\$321.81	
Less Credit	<u>12.96</u>	
	308.85	December 28, 1959
Radio Azcue	345.24	March 28, 1960
Cia. Cubana de Acumuladores	5,383.08	April 14, 1960
	271.53	August 23, 1959
	1,708.17	September 11, 1959
	2,766.23	September 29, 1959
	376.05	October 30, 1959
	1,849.30	November 27, 1959
	2,941.45	June 17, 1959
	3,411.51	July 11, 1959
	2,950.45	July 30, 1959
	1,391.65	September 8, 1959
	2,681.32	July 1, 1959
Aplicaciones Industriales, S.A.	693.36	November 4, 1959
Sres. Fernandez Gomez y Cia. "Kon Tiki"	193.80	October 22, 1958
Radio Aeropuerto Intl'l.	275.75	December 10, 1958
	512.10	April 28, 1958
Transvision Cubana, S.A.	50.21	July 12, 1959
Transmontana Distributing Co.	157.95	May 6, 1960
Industrial Cocinera, S.A.	356.89	May 19, 1960
	<u>\$43,557.55</u>	

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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 in 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 Claim of The Schwarzenbach Huber Company, Claim No. CU-0019, 25 FCSC Semiann. Rep. 58 [July-Dec. 1966]; and Claim of Etna Pozzolana Corporation, Claim No. CU-0049, 1967 FCSC Ann. Rep. 46.)

Accordingly, in the instant claim, the Commission finds that the aforesaid sums totalling \$43,557.55 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 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 corporation.

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 the dates shown below, September 29, 1959 being used for items which fell due prior to that date.

It appears that claimant has asserted and the United States Internal Revenue Service has allowed an income tax deduction in 1960 and 1961 totalling \$43,557.55 for said loss.

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 date 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 as follows:

<u>FROM</u>	<u>ON</u>
September 29, 1959	\$20,006.60
October 30, 1959	376.05
November 5, 1959	693.36
November 24, 1959	1,002.34
November 27, 1959	1,849.30
December 16, 1959	484.78
December 17, 1959	693.84
December 29, 1959	308.85
December 31, 1959	510.15
January 12, 1960	1,520.01
January 20, 1960	27.59
January 23, 1960	1,292.74
January 26, 1960	558.09
January 27, 1960	412.70
February 10, 1960	412.70
February 16, 1960	510.14
February 23, 1960	730.41
February 26, 1960	237.40
February 27, 1960	849.62
March 18, 1960	913.97
March 28, 1960	856.40
March 29, 1960	345.24
April 14, 1960	315.04
April 15, 1960	5,383.08
May 6, 1960	157.95
May 10, 1960	856.41
May 11, 1960	315.04
May 12, 1960	1,046.74
May 19, 1960	356.89
June 5, 1960	534.12
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	\$43,557.55

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CERTIFICATION OF LOSS

The Commission certifies that SINGER PRODUCTS 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 Forty-Three Thousand Five Hundred Fifty-Seven Dollars and Fifty-Five Cents (\$43,557.55) with interest 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

5 FEB 1970

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

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).)

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