

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

IN THE MATTER OF THE CLAIM OF

PANA TRADING CORPORATION
TRADING UNDER THE NAME OF
HENRY L. LEEDS EXPORT
COMPANY.

Claim No. CU-0598

Decision No. CU

180

Under the International Claims Settlement
Act of 1949, as amended

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 PANA TRADING CORPORATION TRADING UNDER THE NAME OF HENRY L. LEEDS EXPORT COMPANY, in the amount of \$4,486.81 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) 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."

The record contains a certified copy of a Business Certificate for Partners which reflects that Gerhard Hirschfeldt and Alex Sonnenfeld, nationals of the United States since their naturalization on December 14, 1943 and April 25, 1944, respectively, were partners in the HENRY L. LEEDS EXPORT COMPANY, a partnership organized under the laws of the State of New York. The record reflects that Gerhard Hirschfeldt and Alex Sonnenfeld were also the owners of the outstanding capital stock of Pana Trading Corporation, a corporation organized under the laws of the State of New York and that they were the sole stockholders on the date of loss and at the time of the presentation of the claim to the Commission. The record reflects further that the subject sales were made under the trade name of HENRY L. LEEDS EXPORT COMPANY; however, the owner in fact of the shipped merchandise was PANA TRADING CORPORATION.

The record contains two letters from The Chase Manhattan Bank dated September 13, 1960 and September 14, 1960 which reflect the collection by its correspondent bank in Cuba in behalf of claimant the respective sums of \$1,674.28 and \$864.85. The letters also reflect that the collections were obtained from the Cuban American Toys Co., S.A., Marianao, Havana, Cuba which claimant alleges constituted payment for merchandise sold to said company. The Havana branch further advised the Chase Manhattan Bank that it was still awaiting a dollar reimbursement release from the appropriate Cuban exchange authorities. Claimant states that it has not received the funds.

The record reflects that claimant made other sales to the Cuban American Toys Co. S.A.. These sales are evidenced by copies of six documents of the Trust Company of Cuba to claimant acknowledging the receipt of six drafts for collection from the Cuban American Toys Co., S.A. in the amounts of \$84.89, \$125.88, \$153.29, \$471.37, \$437.84 and \$674.41. These acknowledgment receipts are numbered 109141, 108958, 144247, 109270, 108807 and 108806 and are respectively dated February 3, 1960, October 26, 1959, March 9, 1960, February 16, 1960 and November 28, 1959. These accounts represent a total sale of \$1,947.68. With regard to these sales, claimant states that the collections were made by the Cuban bank but that claimant has never received the funds.

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, FCSC Claim No. CU-0019; and the Claim of Etna Pozzolena 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 on the following dates:

September 6, 1960 as to \$864.85 and
September 6, 1960 as to \$1,674.28,
one day after the collections were
acknowledged by the Chase Manhattan
Bank;
February 4, 1960 as to \$84.89,
January 10, 1960 as to \$125.88,
March 10, 1960 as to \$153.29,
February 17, 1960 as to \$471.37,
November 29, 1959 as to \$437.84,
December 9, 1959 as to \$674.41,
one day after the debts became
due.

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 American Cast Iron Pipe Company, FCSC Claim No. CU-0249).

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 respective dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

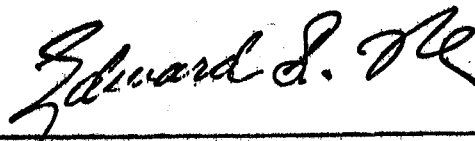
CERTIFICATION OF LOSS

The Commission certifies that PANA TRADING CORPORATION TRADING UNDER THE NAME OF HENRY L. LEEDS EXPORT 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 Four Thousand Four

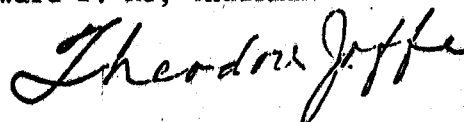
Hundred Eighty-Six Dollars and Eighty-One Cents (\$4,486.81) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

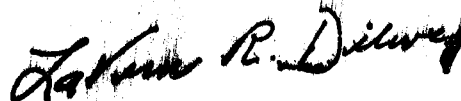
23 AUG 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

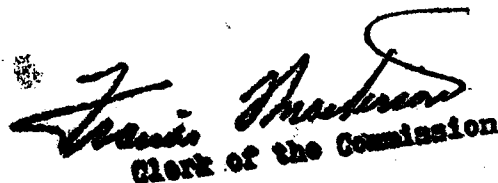


LaVern R. Dilweg, Commissioner

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. 412-13 (1967).)

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on SEP 25 1967



Clerk of the Commission