

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

IN THE MATTER OF THE CLAIM OF

ROBINSON LUMBER COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU- 1769

Decision No. CU 294

Counsel for claimant:

Phelps, Dunbar, Marks,
Claverie & Sims

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 ROBINSON LUMBER COMPANY in the amount of \$20,552.00, as amended, based upon the asserted loss of payment for merchandise shipped to Cuba. Pamela Robinson Plater, John T. Robinson, Samuel G. Robinson, and Charles W. Robinson, the sole partners of the Robinson Lumber Company, have been nationals of the United States since their birth.

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 a copy of claimant's invoice No. 17914 of September 29, 1959, reflecting the sale to Jose Donestevez of Cienfuegos, Cuba, of goods totalling \$19,182.52, as to which freight, shipping and other attendant fees increased the total to \$28,225.71. Claimant states that a sight draft in the amount of \$7,673.71 was paid by the consignee, Jose Donestevez, to The Trust Company of Cuba on November 4, 1959, and that the funds were remitted to claimant.

Additionally, the record includes copies of letters dated December 21, 1960 from The Trust Company of Cuba to The Hibernia National Bank in New Orleans, in which it is stated that the collection of \$10,276.00 was paid on January 26, 1960 by the consignee, Jose Donestevez, that the collection of \$10,276.00 was paid on September 5, 1960 by the consignee, Jose Donestevez, and that the collecting bank was still awaiting a dollar reimbursement release from the Cuban Government. Claimant states that it has not received these funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded transfers of funds, in this and similar cases, 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.)

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 January 27, 1960 as to \$10,276.00, and on September 6, 1960 as to \$10,276.00, the days after the collections were paid.

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, FCSC Claim No. 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.

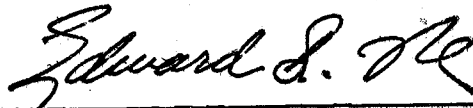
CERTIFICATION OF LOSS

The Commission certifies that ROBINSON LUMBER 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 Twenty Thousand Five Hundred Fifty-Two Dollars (\$20,552.00) 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

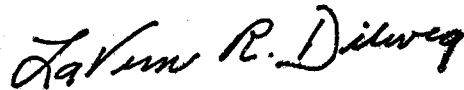
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Edward D. Re, Chairman



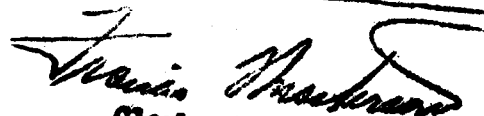
Theodore Jaffe, Commissioner



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. Reg. 412413 (1967).)

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 10 OCT 1967


Clerk of the Commission