

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

IN THE MATTER OF THE CLAIM OF

C. J. DREIFUSS, INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2561

Decision No. CU 1817

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 C. J. DREIFUSS, INC. in the amount of \$18,155.30 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

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."

Claimant submitted a copy of its Articles of Incorporation which establish the claimant was organized in the State of New York and evidence that all times between June, 1944 and presentation of this claim on April 27, 1967, 100% of the outstanding capital stock of the claimant has been owned by United States nationals. 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 includes copies of correspondence from banks, copies of invoices, and other data concerning shipments of merchandise to Cuban business firms, listed hereafter as the consignees. This evidence discloses that the purchase price of the goods and accompanying charges for such shipments were, in many instances, paid by the consignees to local Cuban banks; and that dollar reimbursement releases were never granted by Cuban government officials. Other drafts for shipments made by claimant were not paid to the collecting bank by the consignees. Claimant states that it has not received any of the funds due for such shipments.

There follows hereafter data concerning the shipments made to Cuban consignees, including information on paid and unpaid drafts,

with the dates on which payments were acknowledged or dates on which the unpaid drafts were due and payable:

Unpaid Drafts:

<u>Number</u>	<u>Consignee</u>	<u>Due Date</u>	<u>Amount</u>
20015/81242-A	Guera y Pinera	September 23, 1959	\$ 983.02
22503/81373	Jose Saladrigas	January 5, 1960	1,219.75

Paid Drafts:

<u>Number</u>	<u>Consignee</u>	<u>Date Paid or Acknowledged</u>	<u>Amount</u>
22530/81435	Alonso y Cia	January 18, 1960	\$ 3,046.29
20015/81242	Guera y Pinera	January 29, 1960	983.03
21513/81344	Neira y Gonzalez	March 16, 1960	654.64
21513/81344-A	Neira y Gonzalez	March 21, 1960	654.64
23001/81427	Jose Saladrigas	March 25, 1960	1,950.28
22502/81465	Juan B. Herrera	August 30, 1960	4,687.48
28014/82078	Cia. de Transportes Omnibus Menendez, S.A.	November 16, 1960	<u>3,976.17</u>
		Total	\$18,155.30

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 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).

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

<u>ON</u>	<u>AS TO</u>
September 29, 1959	\$ 983.02
January 5, 1960	1,219.75
January 19, 1960	3,046.29
January 30, 1960	983.03
March 17, 1960	654.64
March 22, 1960	654.64
March 26, 1960	1,950.28
August 31, 1960	4,687.48
November 17, 1960	<u>3,976.17</u>
Total	\$18,155.30

being the date of Law 568 as to the amount of \$983.02, the dates payment was due as to the unpaid amounts, and the dates after the days on which payment was acknowledged as to the paid amounts.

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).

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

CERTIFICATION OF LOSS

The Commission certifies that C. J. DREIFUSS, 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 Eighteen Thousand One Hundred Fifty-Five Dollars and Thirty Cents (\$18,155.30) 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

MAY 8 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, 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).)