

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

IN THE MATTER OF THE CLAIM OF

ABNER M. STECKEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3053

Decision No. CU-669

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$134,185.00, was presented by ABNER M. STECKEL and is based upon the asserted loss of certain property situated in Cuba. Claimant has been a national of the United States since his birth in the United States.

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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

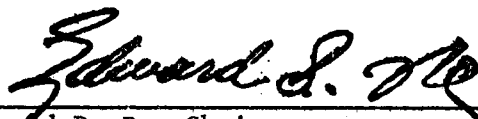
Claimant states that he is filing this claim in his own behalf and as agent for the stockholders of Commander Agriculture Company, a Cuban corporation, all of whom are supposedly United States nationals, and as agent for the partnership known as Knight Steckel & Company. No evidence in support of this claim other than statements of claimant; birth certificates of one Joel Eugene Brown, Olive Juanita Vaughn, Abner Moyer Steckel; and two documents pertaining to the transportation of funds from Cuba. Further, no authorization of Abner M. Steckel to act in a representative capacity was furnished.

By Commission letter of June 30, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. No response was received to this correspondence. On August 30, 1967, claimant was invited to submit any evidence available to him within forty-five (45) days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

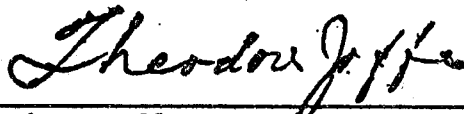
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

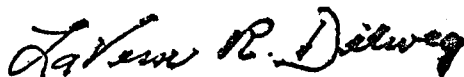
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Edward D. Re, Chairman



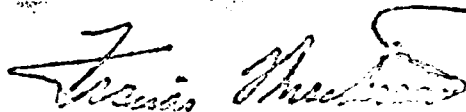
Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the Final
Decision on JUL 4 1967



Clerk of the Commission

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).)

CU-3053

The record contains letters from various banks in Cuba to Ciappi, Compain & Co., Inc. stating that they had collected payments in local currency from consignees as follows:

<u>Consignee</u>	<u>Amount Collected</u>	<u>Date Collection Acknowledged By Cuban Bank</u>	<u>Net Amount Due Ciappi, Compain & Co., Inc. After Deduction of Agent's Commission and Cash Discount.</u>
Vda. de Belleau & Co.	\$5,725.18	April 6, 1960 as to \$5,140.25	\$5,612.47
		April 13, 1960 as to \$584.95	
Ortiz Lloreda y Cia	\$ 856.62	March 29, 1960	\$ 851.42
Lopez y Suarez	\$ 404.08	April 6, 1960	\$ 400.72
Cia Com. Antonio Leal, S.A.	\$ 932.41	February 3, 1960	\$ 924.05
Shulman & Biniakovsky	\$1,208.90	January 26, 1960	\$1,175.17
Pascual y Gomez	\$ 920.98	January 15, 1960	\$ 913.00
Santos Bouza & Co.	\$1,228.80	January 29, 1960	\$1,216.94

In all of the above-mentioned collections claimant states that Ciappi, Compain & Co., Inc., never received the funds.

Additionally the record contains copies of invoices reflecting the sale of merchandise by Ciappi, Compain & Co., Inc. to various consignees in Cuba as follows:

<u>Consignee</u>	<u>Cost of Goods Shipped</u>	<u>Date Goods Shipped</u>	<u>Amount Due Ciappi, Compain & Co., Inc. After Deduction of Agent's Commission.</u>
Marce & Cia	\$4,591.26	September 1, 1959 as to \$2,210.81	\$4,551.61
		October 26, 1959 as to \$1,336.16	
		November 9, 1959 as to \$1,044.29	
Baudilio Marce Rigual	\$ 365.91	October 12, 1959	\$ 362.60

<u>Consignee</u>	<u>Cost of Goods Shipped</u>	<u>Date Goods Shipped</u>	<u>Amount Due Ciappi, Compain & Co., Inc. After Deduction of Agent's Commission.</u>
Santos Bouza & Co.	\$1,426.84	August 3, 1959	\$1,414.01
V. Mercade & Co.	\$2,024.67	November 9, 1959	\$2,009.18
Villalobos e Hijos	\$ 560.25	November 16, 1959	\$ 555.47
Jose Junquera & Co.	\$2,378.88	June 15, 1959	\$2,358.12

Regarding all of these shipments, claimant states that Ciappi, Compain & Co., Inc. 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 Pozzolana Corporation, FCSC Claim No. CU-0049).

Accordingly, in the instant claim the Commission finds that Ciappi, Compain & Co., Inc., lost property as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the loss occurred as follows:

<u>On</u>	<u>As To</u>
January 27, 1960	\$1,175.17
January 16, 1960	\$ 913.00
January 30, 1960	\$1,216.94
February 4, 1960	\$ 924.05

<u>On</u>	<u>As To</u>
March 30, 1960	\$ 851.42
April 7, 1960	\$5,433.37
April 14, 1960	\$ 579.82

The dates after the collections were acknowledged by the Cuban banks and in those cases where payment was not made by the consignees:

<u>On</u>	<u>As To</u>
September 29, 1959	\$2,358.12
October 3, 1959	\$1,414.01
November 1, 1959	\$2,190.71
December 12, 1959	\$ 362.60
December 26, 1959	\$1,323.97
January 9, 1960	\$3,046.11
January 16, 1960	\$ 555.47

The September 29, 1959 date being the date of Law 586 which the loss date for payments which became due prior thereto and the other dates being the dates payment became due.

The Commission concludes therefore that Ciappi, Compain & Co., Inc., suffered a loss totalling \$22,344.76 and that the claimant ERNEST A. COMPAIN as the owner of a one-half interest in the former corporation and a successor in interest of a one-half interest suffered a loss in the amount of \$11,172.38.

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 the Claim of Lisle Corporation, FCSC 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 ERNEST A. COMPAIN 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 Eleven Thousand One Hundred and Seventy-Two Dollars and Thirty-Eight Cents (\$11,172.38) 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

22 NOV 1967

CERTIFICATION

THIS AS TO BEING AND CORRECT COPY OF THE DECISION
OF THE COMMISSION AND IS SUBJECT TO THE DECISION
RECORDED ON FILE DEC 27 1967

Frank M. ...
CLERK OF THE COMMISSION

Edward D. Re
Edward D. Re, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

LaVern R. Dilweg
LaVern R. Dilweg, 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.

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