

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

SENSITIVE RESEARCH
INSTRUMENT CORPORATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3315

Decision No. CU 3994

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$232,232.71, was presented by SENSITIVE RESEARCH INSTRUMENT CORPORATION, based upon the asserted loss of certain personal property in 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.

The record shows that claimant (formerly known as Caribbean Supply Company and later, Caribbean Merchandising Company) was organized under the laws of the State of Delaware. An authorized officer of claimant has certified that all of claimant's outstanding capital stock has been owned at all times by International Securities Company, a New Jersey corporation. It has been further certified that all of the outstanding shares of International Securities Company are owned by United States nationals, that The Singer Company owns at least 299,000 of the outstanding 300,000 shares and that on May 17, 1968, 2.57% of the outstanding capital stock of The Singer Company was held by persons subject to the non-resident alien tax. The Commission holds that claimant and the parent corporations are nationals of the United States within the meaning of Section 502(1)(B) of the Act.

The record shows that claimant maintained an office at Zulueta No. 617, Altos, Havana, Cuba, where it engaged in the business of distributing and selling Singer sewing machines and related equipment to dealers, distributors and certain retail customers. On October 24, 1960, the Cuban Government published Resolution 3, pursuant to Law 851 which listed claimant as nationalized. The Commission finds that all of claimant's assets were nationalized on October 24, 1960 and that claimant sustained a loss within the meaning of Title V of the Act.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights or interests taken, the Commission shall take into account the

basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Claimant has computed its claim on the basis of a balance sheet for the Cuban office as of October 26, 1960 as follows:

Assets

Cash		\$ 23,773.77	
Accounts Receivable			
Book	\$ 24,204.87		
Lease	<u>13,906.05</u>	38,110.92	
Inventory of Merchandise			
Machines	56,956.89		
Parts, Needles, etc.	<u>105,824.35</u>	162,781.24	
Autos & Trucks	5,871.00		
Furniture & Fixtures	14,579.20		
Less: Reserve for depreciation	<u>12,883.42</u>	<u>7,566.78</u>	
Total Assets			\$232,232.71

Liabilities and Capital

Executive Office		\$179,232.71	
Capital		10,000.00	
First National City Bank of New York		<u>43,000.00</u>	
Total Liabilities and Capital			\$232,232.71

In support of the entries in the balance sheet, claimant has submitted copies of bank statements, a list of the accounts receivable, stock records and an itemized list of furniture, fixtures, equipment and vehicles.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimant is that shown in the balance sheet for the Cuban office as of October 26, 1960, which indicates the values of that office's assets as \$232,232.71. The Commission consistently has not reduced the value of a corporate claimant's branch in Cuba by any liabilities in its determinations under Title V of the Act, except for debts owing to the Republic of Cuba. The Commission finds no valid reason for reducing the values of the assets of the Cuban office herein by its liabilities.

The Commission, therefore, concludes that the loss sustained by claimant within the meaning of Title V of the Act was \$232,232.71.

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.

CERTIFICATION OF LOSS

The Commission certifies that SENSITIVE RESEARCH INSTRUMENT CORPORATION sustained a loss, as a result of the 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 Two Hundred Thirty-two Thousand Two Hundred Thirty-two Dollars and Seventy-one Cents (\$232,232.71) with interest thereon at 6% per annum from October 24, 1960 to the date of settlement.

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

OCT 8 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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).)