

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

IN THE MATTER OF THE CLAIM OF

PAN AMERICAN WORLD AIRWAYS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2576

Decision No. CU 2343

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 PAN AMERICAN WORLD AIRWAYS, INC., on April 28, 1967 as assignee by purchase, based upon the 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.

An officer of the claimant corporation has certified that the claimant was organized in New York and that at all times between July 1, 1960 and presentation of this claim more than 50% of the outstanding capital stock of 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.

Claimant states that between July 1, 1960 and April 28, 1967 the amount of stock held by persons resident outside the United States has not exceeded 2 per cent, and as of April 28, 1967, only .006 per cent was so held.

The record reflects that Warren A. Pine, Jr., a national of the United States by birth, was employed by claimant in Cuba. In July, 1960, he left Cuba, without being permitted by Cuban authorities to take any of his personal property, consisting of household and personal effects located in an apartment at Avenida 7a No. 6617, Miramar, Mariano, Havana, Cuba. Thereafter, according to the record, the apartment was sealed and the contents seized by a Cuban governmental agency.

The Commission finds that Warren A. Pine, Jr., was the owner of certain personal property in Havana, which was taken by the Government of Cuba, and that in the absence of evidence to the contrary, the loss occurred on July 31, 1960. Accordingly it is concluded that Warren A. Pine, Jr., suffered a loss within the meaning of Title V of the Act as a result of the taking of his property by the Government of Cuba.

Thereafter, and prior to the filing of this claim, Warren A. Pine, Jr., in consideration of the sum of \$12,784.25 paid him by PAN AMERICAN WORLD AIRWAYS, INC., assigned his claim against the Government of Cuba to claimant. The Commission finds that claimant has succeeded to the claim of Warren A. Pine, Jr., against the Government of Cuba, for the loss of personalty situated in his apartment in Mariano, Havana, Cuba.

The record contains a fourteen-page detailed listing of the personal property involved, with values ascribed to each item. The Commission finds that \$12,784.25 represents the fair value of the property taken by the Government of Cuba.

Accordingly, the Commission finds that claimant succeeded to a loss in the amount of \$12,784.25 within the meaning of Title V of the Act.

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 loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from July 31, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that PAN AMERICAN WORLD AIRWAYS, INC., succeeded to and 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 Twelve Thousand Seven Hundred Eighty-Four Dollars and Twenty-Five Cents (\$12,784.25) with interest thereon at 6% per annum from July 31, 1960 to the date of settlement.

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

JUL 31 1968

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).)