

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

IN THE MATTER OF THE CLAIM OF

STANLEY HOME PRODUCTS, INCORPORATED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1279

Decision No. CU

819

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$122,000.00, was presented by STANLEY HOME PRODUCTS, INCORPORATED based upon the asserted loss of two bank accounts in Cuba, owned prior to the date of loss by claimant corporation's wholly-owned subsidiary, Stanhome de Cuba, Incorporated, a Delaware corporation.

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) 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."

An officer of the claimant corporation has certified that the claimant was organized in the State of Massachusetts and that at all times between July 15, 1931 and presentation of this claim on April 3, 1967, more than 50% 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.

Claimant states that only .23% of its outstanding corporate stock is held by stockholders who are not nationals of the United States.

On the basis of evidence of record, the Commission finds that at all times between December 6, 1961 and July 9, 1963, claimant owned 100% of the outstanding capital stock of Stanhome de Cuba, Incorporated, its subsidiary, which had been incorporated in Delaware and also was a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record includes financial statements of Stanhome de Cuba, Inc., and statements dated March 30, 1961 from Banco Nacional de Cuba, on the basis of which the Commission finds that Stanhome de Cuba, Inc., had deposit accounts with that bank with balances of 3,465.98 pesos and 116,439.14 pesos as of February 28, 1961.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these things affect the accounts in the present claim.

Law 568, published in the Cuba Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Laws 963 and 964 do not affect the present claim in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra. In the absence of evidence to the contrary, the Commission finds that claimant's subsidiary's above-described bank accounts, totalling 119,905.12 pesos, were taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, FCSC Claim No. CU-0020.)

Further, the Commission finds that on December 6, 1961, the subsidiary's 119,905.12 pesos had a value of \$119,905.12 and that it suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of the two bank accounts by the Government of Cuba as of December 6, 1961.

The record further discloses that upon the liquidation of Stanhome de Cuba, Incorporated, on July 9, 1963, all of its assets, including the present claim, were transferred to its parent corporation, STANLEY HOME PRODUCTS, INCORPORATED, the present claimant, which therefore is entitled to present this claim under 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 the Claim of Lisle Corporation, FCSC 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 on \$119,905.12 from December 6, 1961 to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that STANLEY HOME PRODUCTS, INCORPORATED, 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 One Hundred Nineteen Thousand Nine Hundred Five Dollars and Twelve Cents (\$119,905.12) with interest thereon at 6% per annum from the date of taking to the date of settlement.

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

14 DEC 1967

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.

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).)