

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

IN THE MATTER OF THE CLAIM OF

ROYAL SYNTHETICS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1281

Decision No. CU
3811

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 Max Reiner, d.b.a. Royal Company, in the amount of \$34,787.03 based upon the asserted loss of payment for merchandise shipped to Cuba. The assets, liabilities and capital of Royal Company having been transferred in 1963 to ROYAL SYNTHETICS, INC., it is substituted as claimant herein.

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 claim herein arose in favor of Max Reiner, a national of the United States, d.b.a. Royal Company. In 1963 he transferred the assets, liabilities and capital of Royal Company to ROYAL SYNTHETICS, INC., incorporated in New York, and of which he is the sole stockholder. 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 contains copies of invoices, bills of lading, and bank letters reflecting the sale of goods to consignees in Cuba as set out below, giving the date payment was made to Bank, or was due. Claimant states it has not received these funds.

<u>Consignee</u>	<u>Date Paid or Due</u>	<u>Amount</u>
Simon Atran	July 28, 1960	\$ 7,791.33
Lazarus Goldstein	January 14, 1960	1,912.26
Industrial Plastiflex	November 25, 1959	1,573.83
Mario Krivochev	May 24, 1959	1,260.72
Jose Linietsky	November 25, 1959	346.00
Roca & Cia.	March 11, 1960	1,290.09
	July 8, 1960	1,311.48
D. Satran	January 14, 1960	\$669.41
	Credit	<u>132.00</u>
	January 29, 1960	537.41
	January 29, 1960	1,089.40
	February 1, 1960	668.00
	February 20, 1960	1,088.00

<u>Consignee</u>	<u>Date Paid or Due</u>	<u>Amount</u>
Alvarez Suarez	January 6, 1960	\$ 2,566.15
Elias Zand	December 27, 1959	1,734.99
	June 29, 1960	1,709.53
	July 12, 1960	2,195.60
Meiras Zand	November 3, 1959	1,700.63
	November 10, 1959	1,699.00
	December 30, 1959	1,505.14
	January 5, 1960	936.47
	January 25, 1960	936.00
	February 20, 1960	<u>935.00</u>
		\$34,787.03

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 in 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, 1967 FCSC Ann. Rep. 46.)

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 on the dates further shown below, September 29, 1959 being used for payments made or amounts due prior to that date.

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:

<u>FROM</u>	<u>ON</u>
September 29, 1959	\$ 1,260.72
November 3, 1959	1,700.63
November 10, 1959	1,699.00
November 25, 1959	1,919.83
December 27, 1959	1,734.99
December 30, 1959	1,505.14
January 5, 1960	936.47
January 6, 1960	2,566.15
January 14, 1960	2,449.67
January 25, 1960	936.00
January 29, 1960	1,089.40
February 1, 1960	668.00
February 20, 1960	2,023.00
March 11, 1960	1,290.09
June 29, 1960	1,709.53
July 8, 1960	1,311.48
July 12, 1960	2,195.60
July 28, 1960	<u>7,791.33</u>
	\$34,787.03

CERTIFICATION OF LOSS

The Commission certifies that ROYAL SYNTHETICS, 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 Thirty-four Thousand Seven Hundred Eighty-seven Dollars and Three Cents (\$34,787.03) 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

AUG 20 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).)