

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

IN THE MATTER OF THE CLAIM OF

ANTONIO PADIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0457

Decision No. CU
2008

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$28,000.00, was presented by ANTONIO PADIN, based upon the asserted debt of a nationalized Cuban enterprise. Claimant has been a national of the United States since his naturalization in 1929.

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 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.

The record contains a copy of a Commercial Loan document of December 23, 1953 selling out an agreement between "Sainz Rey & Cia." and claimant whereby claimant agreed to grant "Sainz Rey & Cia." a loan of 40,000 pesos, the terms of the agreement being indefinite. There is also a copy of a receipt of the money by the partnership. Additionally, the file contains a sworn copy of the Statement of Account reflecting payments on the loan through December 18, 1959 of sums totalling \$12,000.00.

Claimant states that the payments were made to him by checks on New York banks or in cash while he was in Cuba, the checks of course, being returned to the issuer. Moreover, a letter from claimant of March 28, 1960 relates the efforts made by "Sainz Rey & Cia." to obtain approval of the Banco Nacional de Cuba to resume monthly payments, without result.

On December 5, 1962, the Government of Cuba published its Law 1076 in its Official Gazette. This law authorized the nationalization and appropriation to the Cuban State of private commercial enterprises, and their establishments, stores, deposits, goods and rights, dedicated to clothes, weaving, footwear and hardware. There has not been located any Resolution of the Cuban Minister of Trade effectuating nationalization of "Sainz Rey & Cia." It appears that frequently such Resolutions have not been published in the Cuban Official Gazette. A letter to claimant from A Sainz of "Sainz Rey & Cia.", dated December 10, 1962 relates that the company was nationalized by a Law of December 5, 1962. Accordingly, in the absence of evidence to the contrary, the Commission finds that "Sainz Rey & Cia.", was nationalized by the Government of Cuba on December 5, 1962, pursuant to Law 1076.

Based on the foregoing, the Commission finds that "Sainz Rey & Cia." owed claimant the sum of \$28,000.00; that this debt of a nationalized enterprise constituted property as the term is used in Section 502(3) of the Act; and concludes that claimant suffered a loss in the amount

of \$6,725.29 within the meaning of Title V of the Act as a result of nationalization of "Sainz Rey & Cia." by the Government of Cuba as of December 5, 1962.

The Commission has decided that in certification of loss 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 the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$28,000.00 from December 5, 1962 to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that ANTONIO PADIN, 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 Twenty-Eight Thousand Dollars (\$28,000.00) with interest thereon at 6% per annum from December 5, 1962 to the date of settlement.

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

26 JUN 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Friedberg

Sidney Friedberg, Commissioner

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-0457

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.

CU-0457