

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

IN THE MATTER OF THE CLAIM OF

EDWARD KUERZE, EXECUTOR, ESTATE
OF EDWARD J. KUERZE, DECEASED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0638

Decision No. CU -644

Counsel for claimant:

Kennedy & Moore
by Emmett R. Moore, Esq.

Appeal and objections from a Proposed Decision entered November 15, 1967.
No oral hearing requested.

Hearing on the record held on April 24, 1968.

FINAL DECISION

This claim, for \$3,411.60, based upon 66 coupons detached from bonds known as Republic of Cuba 5% Gold Bonds of 1904, was denied by Proposed Decision dated November 15, 1967 for the reason that claimant had not established that the claim was one arising since January 1, 1959, and not based upon a loss by nationalization, expropriation, intervention, or other taking of, or special measures directed against, property of nationals of the United States by the Government of Cuba. The coupons were for interest due on the bonds for the period 1934 through 1939.

Claimant objected to the Proposed Decision asserting that under Cuban law the five-year period of limitations for actions based upon interest coupons might not be enforced because of extenuating circumstances. However, no evidence in support of the objections was submitted.

Upon consideration of the entire record, including claimant's objections, the Commission finds that claimant has not established that the claim arose since January 1, 1959 and is based upon a nationalization, expropriation, intervention, or other taking of, or special measures directed against, property of nationals of the United States by the Government of Cuba.

Accordingly, it is

ORDERED that the Proposed Decision denying this claim be and it hereby is affirmed and entered as the Final Decision of the Commission on this claim.

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

MAY 1 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20577

IN THE MATTER OF THE CLAIM OF

EDWARD KUERZE, EXECUTOR,
ESTATE OF EDWARD J. KUERZE,
DECEASED

Claim No. CU -0638

Decision No. CU 644

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Kennedy & Moore
by Emmett R. Moore, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$3,411.60, was presented by EDWARD KUERZE, EXECUTOR, ESTATE OF EDWARD J. KUERZE, DECEASED, based upon 66 coupons, detached from bonds known as Republic of Cuba 5% Gold Bonds of 1904.

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.

It is stated by claimant that the late Edward J. Kuerze, who died on March 16, 1965, owned Republic of Cuba 5% Gold Bonds of 1904, which now cannot be located and for which no claim is made, and also 66 coupons, detached, representing interest on the bond issue in question for the years 1934-1939. It is also alleged that the amounts represented by such coupons are now uncollectible because of unspecified action by the present Government of Cuba.

Evidence available to the Commission shows that the interest on the Republic of Cuba 5% Gold Bonds of 1904 was paid in full and the bonds themselves were redeemed in full on March 1, 1944, their date of maturity. (See Foreign Bondholders Protective Council, Inc., Annual Report for Years 1941 through 1944, 355.) It is also known to the Commission that no action may be brought under Cuban law for payment of interest coupons of a bond after five years from the date when such obligation became due. Inasmuch as the coupons matured during the years 1934-1939 and the principal of the bond issue was redeemed in full as of March 1, 1944, the Commission finds that claimant had no enforceable claim on January 1, 1959 for the payment of the coupons involved in this claim.

Furthermore, Title V of the Act pertains to claims by nationals of the United States against the Government of Cuba arising since January 1, 1959. (See Section 503(a) above.) Since claimant's loss apparently was caused by his failure to present the coupons for payment on their respective due dates which occurred prior to January 1, 1959, the claim is not one arising since January 1, 1959 and may not be regarded as based upon a loss arising out of nationalization, expropriation, intervention, or other taking

of, or special measures directed against, property of nationals of the United States by the Government of Cuba.

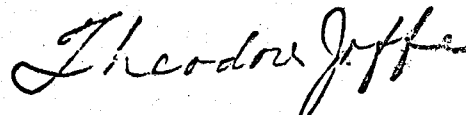
Accordingly, the claim is denied. The Commission deems it unnecessary to determine other elements of this claim.

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

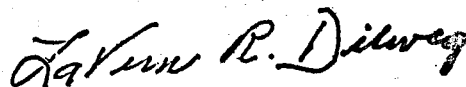
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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).)