

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

IN THE MATTER OF THE CLAIM OF

JAMES B. BERNSTEIN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0681

Decision No. CU  
**3505**

Counsel for claimant:

Theodore P. Cohen, Esq.

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 JAMES B. BERNSTEIN and is based upon the asserted loss of \$600.00, sustained in connection with the ownership of a stock interest in Industrial Bank, Havana, Cuba. Claimant has been a national of the United States at all times pertinent to this claim.

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.

The record contains stock certificates Nos. 223 and 284 issued September 24, 1953 and April 1, 1955, respectively, to claimant for a total of 6 shares in the Industrial Bank.

The record discloses that on October 13, 1960, the Government of Cuba published its Law 891 in the Cuban Official Gazette (Special Edition). This Law declared banking to be a public function to be exercised by the State. Article 2 of the Law provided for the nationalization of banking companies and the transfer of their assets and liabilities to the National Bank of Cuba, an agency of the Cuban Government. Accordingly, the Commission finds that Industrial Bank was nationalized by the Government of Cuba on October 13, 1960. (See Claim of Elmer E. Keller, et al, Claim No. CU-1615.)

The evidence of record reflects that the Industrial Bank was organized under the laws of Cuba and does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or of any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. Therefore, the Industrial Bank may not file a claim under the Act. However the claimant, as a United States national, is entitled to file this claim based upon his ownership of the shares in question. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

Inasmuch as claimant comes within the terms of the Keller decision, holding that this type of claim is compensable to an American national under the facts and conditions set forth therein, we need not again detail here the reasons or the method used in determining the value for each share as being \$142.1216.

Accordingly, in the instant claim the Commission finds that claimant suffered a loss in the amount of \$852.73 within the meaning of Title V of the Act, as a result of the nationalization of the Industrial Bank by the Government of Cuba on October 13, 1960.

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.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any greater or lesser amounts which may be asserted by a claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that JAMES B. BERNSTEIN 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 Eight Hundred Fifty-two Dollars and Seventy-three Cents (\$852.73 ) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

FEB 12 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

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].)