

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

IN THE MATTER OF THE CLAIM OF

ISIDORE B. ASTOR

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1040

Decision No. CU **1207**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$20,000.00 was presented by ISIDORE B. ASTOR, and is based on his interest in bonds issued by the Cuba Railroad Company. Claimant has been a national of the United States since his naturalization on August 5, 1926.

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.

On the basis of evidence of record, the Commission finds that claimant is, and since prior to October 13, 1960, has been the owner of 10 bonds in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company and known as "Improvement and Equipment Gold Bonds, 4%, due June 30, 1970" issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, with Chemical Bank New York Trust Company as Successor Trustee. The bonds in question are Nos. M 2242 thru M 2245 and M 2364 thru M 2369.

The Commission further finds that claimant is, and since prior to October 13, 1960, has been the owner of 10 bonds, in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company, and known as "First Lien and Refunding Bonds, Series B, 4%, due June 30, 1970" issued under Supplemental Indentures of June 2, 1926 and July 1, 1952, with the First National City Bank of New York as Successor Trustee. The bonds in question are numbered M 713 thru M 722.

The Cuba Railroad Company, organized in the State of New Jersey, was a wholly-owned subsidiary of Consolidated Railroads of Cuba, a Cuban corporation. By Indenture dated July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, the Cuba Railroad Company issued Dollar bonds secured by mortgage upon the realty and equipment of the Company. By the Supplemental Indentures of July 1, 1952, the bonds were reissued as 4% bonds, due June 30, 1970. Additionally, as to the "First Lien and Refunding Bonds", the Company, by Indenture dated March 10, 1922, and Supplemental Indentures dated June 2, 1926 and July 1, 1952, issued Dollar bonds secured by mortgage upon the real property of the Company. As of 1952, the outstanding principal balance on each \$1,000.00 bond was \$635.00, with interest at 4% per annum to be paid on the principal balance.

The record discloses that the last payment of interest on the bonds was made on November 1, 1958 in the case of the Improvement and Equipment Bonds and on December 1, 1958 in the case of the First Lien and Refunding Bonds. The properties of the Cuba Railroad Company were listed as nationalized by Cuban Law 890, effective October 13, 1960, the date of its publication in the Cuban Official Gazette. Claimant's bonds, therefore, represented debts which were a charge upon nationalized property as defined in Section 502(3) of the Act.

The Commission concludes that, as a result of the nationalization of the properties of the Cuba Railroad Company, claimant suffered a loss in connection with his bonds within the meaning of Title V of the Act. (See the Claim of Edgar F. Corliss, FCSC Claim No. CU-0785, and the Claim of Albert I. Harris, FCSC Claim No. CU-2398.)

The Commission finds that the total amount of the unpaid indebtedness on claimant's bonds was \$13,672.40 including the principal amount of \$12,700.00 and the interest due on the bonds from November 1, 1958 (on the Improvement and Equipment Bonds) and from December 1, 1958 (on the First Lien and Refunding Bonds) to October 13, 1960, the date of loss in the amount of \$972.40.

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 loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

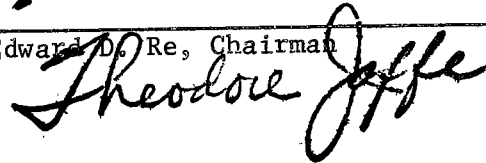
The Commission certifies that ISIDORE B. ASTOR suffered a loss, as a result of action of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirteen Thousand Six Hundred Seventy-Two Dollars and Forty Cents (\$13,672.40) with interest thereon 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 14 1968




Edward D. Re, Chairman



Theodore Jaffe, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision on MAR 18 1968


Clerk of the Commission

NOTICE TO TREASURY DEPARTMENT: The above listed certificates and/or bonds may have been returned to claimant and no payment should be made until they are resubmitted.

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).)