

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

IN THE MATTER OF THE CLAIM OF

MOLLIE FELDMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1044

Decision No. CU 2045

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 \$981.70, was presented by MOLLIE FELDMAN, and is based on her interest in three bonds issued by the Cuba Railroad Company. Claimant has been a national of the United States since her marriage to Joseph Feldman, a citizen of the United States.

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 the evidence of record, the Commission finds that claimant is, and since prior to October 13, 1960, has been the owner of three bonds in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company and known as Improvement and Equipment Gold Bond, 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 843, M 2022, and M 2023.

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 Indenture of July 1, 1952, the bonds were reissued as 4% bonds, due June 30, 1970. 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. 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. The Cuba Railroad Company, organized in the State of New Jersey, was a wholly-owned subsidiary of Consolidated Railroads of Cuba, a Cuban corporation. Thus, the Cuba Railroad Company would not qualify as a national of the United States under Section 502(1)(B) of the Act which defines the term "National of the United States" as including 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. Therefore, claimant is entitled to file this claim based upon the bonds in question which represent a debt which was a charge on property which has been nationalized by the Government of Cuba, within the purview of 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 her bonds within the meaning of Title V of the Act. (See Claim of Edgar F. Corliss, Claim No. CU-0785.)

The Commission finds that the total amount of the unpaid indebtedness on claimant's bonds was \$2,054.04, including the total principal amount of \$1,905.00 and the interest due on the bonds from November 1, 1958 to October 13, 1960, the date of loss, in the amount of \$149.04.

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 lesser or greater amounts which may be asserted by claimant as the extent thereof.

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).

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 MOLLIE FELDMAN 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 Two Thousand Fifty-Four Dollars and Four Cents (\$2,054.04) 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.

3 JUL 1968

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 or 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).)