

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

IN THE MATTER OF THE CLAIM OF

SOLOMON SIEGEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1201

Decision No. CU-1203

ORDER AND AMENDED PROPOSED DECISION

By Proposed Decision dated February 7, 1968, the Commission denied this claim for failure to sustain the burden of proof. The Proposed Decision was entered as the Commission's Final Decision of March 14, 1968. Upon re-consideration of this matter, it is

ORDERED that the Final Decision be and the same is vacated and set aside, and the Proposed Decision is hereby amended.

On the basis of evidence of record, the Commission finds that claimant SOLOMON SIEGEL is, and since prior to October 13, 1960, has been the owner of bonds, in the original face amount of \$36,000.00, issued by the Cuba Railroad Company, and known as "First Lien and Refunding Bond, Series A, 4%, due June 30, 1970" issued under an Indenture of March 10, 1922 and a Supplemental Indenture dated July 1, 1952, with the First National City Bank of New York as Successor Trustee. The bonds in question are numbered TRM 1244 through 1279.

The Commission further finds that claimant is and since prior to October 13, 1960, has been the owner of six bonds, in the original face amount of \$26,000.00 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 TRM285, and RV11 through RV15. These bonds are being held for the account of the claimant by a brokerage house, in the capacity of Trustee for the claimant, and should be surrendered before payment can be made on the loss represented thereby.

The record discloses that Cuba Railroad Company was owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba). They were listed as nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. Consolidated Railroads 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 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. Moreover, although Cuba Railroads was organized in New Jersey, it is wholly owned by Consolidated Railroads and does not qualify as a national of the United States under Section 502(1)(B) (supra). (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

Therefore, claimant is entitled to file this claim based upon the bonds in question which represent the debt of a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Albert I. Harris, Claim No. CU-2398.)

The Cuba Railroad 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. By the Supplemental Indenture of July 1, 1952, the bonds were re-issued 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 December 1, 1958.

The Commission finds that the total amount of the unpaid indebtedness on the bonds of the claimant was \$42,318.72, including the principal amount of \$39,370.00, and the interest due from December 1, 1958 through October 13, 1960, in the amount of \$2,948.72.

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, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained by the 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.

The following certification will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that SOLOMON SIEGEL 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 Forty-Two Thousand Three Hundred Eighteen Dollars and Seventy-Two Cents (\$42,318.72) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

AUG 29 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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 Amended 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).)

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 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.

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

IN THE MATTER OF THE CLAIM OF

SOLOMON SIEGEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1201

Decision No. CU 1203

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$62,000.00, was presented by SOLOMON SIEGEL and is based upon the asserted ownership and loss of interests in bonds issued by the Cuba Railroad Company. Claimant has been a national of the United States since his naturalization on February 3, 1920.

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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

This claim is based upon claimant's asserted ownership of certain bonds, in the original face amount of \$62,000.00, issued by the Cuba Railroad Company and known as "First Lien and Refunding Bonds, Series A and Series B, 4%, due June 30, 1970." The record contains a letter from Hirsch & Co. to the claimant dated April 13, 1967, in which the brokerage firm certifies that it holds, and has held for claimant's account since prior to October 13, 1960, the above-described bonds registered in the name of Hirsch & Co.

By letter of June 21, 1967, the Commission suggested that claimant submit, inter alia, the original bonds upon which this claim is based. However, no evidence in response to this correspondence has been received to date.

On July 25, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed, that,

absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

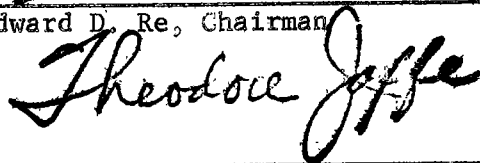
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

FEB 7 1968



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

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This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on **MAR 14 1968**


Clerk of the Commission

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).)