

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

IN THE MATTER OF THE CLAIM OF

HENRY GOLDMAN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -1240

Decision No. CU -1689

AMENDED PROPOSED DECISION

By its Proposed Decision of April 10, 1968 the Commission certified the claimant's loss based on ten Cuba Railroad Company First Mortgage bonds, in the amount of \$4,928.60.

So much of the claim in the amount of \$9,000.00 as was based on additional bonds was denied as claimant did not establish ownership by a United States national or nationals on October 13, 1960, the date of loss.

Claimant has since submitted additional evidence including a notification of purchase indicating the purchase by the claimant of the aforementioned bonds on December 30, 1960 for \$906.25.

Upon consideration of this matter, it is

ORDERED that the Proposed Decision be and the same is hereby amended as follows:

The Certificates now involved are Nos. TRM 4409 through TRM 4428.

On the basis of evidence of record, the Commission finds that claimant acquired the above-numbered certificates by purchase on December 30, 1960 for a consideration of \$906.25. The record shows that these bonds were held by United States nationals from the date of loss.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Commission finds that claimant upon his purchase of the securities, succeeded to the loss sustained by the assignor of the claimed securities, and concludes that he succeeded to and suffered an additional loss in the total amount of \$906.25, the price he paid, as a result of the nationalization of Cuba Railroad Company on October 13, 1960.

The Commission concludes, however, that the amount of loss sustained by claimant herein on these additional bonds shall be increased by interest thereon at the rate of 6% per annum from December 30, 1960, the date of purchase, to the date on which provisions are made for settlement thereof.

The certification of loss, as restated below, will be entered, and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that HENRY GOLDMAN 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 Five Thousand Eight Hundred Thirty-Four Dollars and Eighty-Five Cents (\$ 5,834.85 ) with interest thereon at 6% per annum as follows to the date of settlement:

<u>Amount</u>	<u>Date</u>
\$4,928.60	October 13, 1960
<u>\$ 906.25</u>	December 30, 1960
\$5,834.85	

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

SEP 4 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 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).)

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IN THE MATTER OF THE CLAIM OF

HENRY GOLDMAN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -1240

Decision No. CU

**1689**

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 \$49,000.00 plus interest, was presented by HENRY GOLDMAN and is based upon the asserted loss of his interest in bonds issued by the Cuba Railroad Company. Claimant has been a national of the United States since his birth.

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).)

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 10 bonds each in the original face amount of \$1,000, issued by the Cuba Railroad Company and known as First Mortgage Gold Bonds, 4%, due June 30, 1970 issued under a Supplemental Indenture of July 1, 1952, with Guaranty Trust Company of New York as Trustee (formerly First Mortgage, 50 Year Gold Bonds issued September 18, 1902, 5%, due July 1, 1952, with the Morton Trust Company of New York as Trustee). The bonds in question are Nos. TRM 1, TRM 2, TRM 4754 thru TRM 4758, and M 946 thru M 948.

Pursuant to the Supplemental Indenture of July 1, 1952, the bonds are over stamped to set forth an outstanding principal balance of \$460.00, and to provide total annual interest of \$18.40, or, 4% of the outstanding principal balance.

The Cuba Railroad Company, incorporated in the State of New Jersey, was wholly owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation. The Cuba Railroad Company thus would not qualify as a national of the United States under Section 502(1) of the Act which defines the term "national of the United States" as including "(B) 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".

The record shows that the properties of Cuba Railroad Company were listed as nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. Claimant's bonds, therefore, represent a debt which was a charge on property which has been nationalized by the Government of Cuba as defined in Section 502(3) of the Act (supra).

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.

With regard to the value of the bonds on the date of loss, information available to the Commission discloses that no part of the outstanding principal balance was ever paid, and that the last payment of interest was made on January 1, 1959.

The Commission, therefore, finds that the amount of the unpaid indebtedness on claimant's bonds on October 13, 1960, the date of loss, was \$4,928.60, including the principal amount of \$4,600.00, and the interest due on the bond in the amount of \$328.60.

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.

Claimant also submitted bonds Nos. TRM 4409 through TRM 4428. Additionally, claim is made for another \$9,000.00 in face value of such bonds.

In order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

With respect to the portion of the claim as to the remaining bonds, evidence of record does not establish that these securities were owned by claimant or another United States national on October 13, 1960, the date of loss.

The Commission therefore finds that claimant has not met the burden of proof in that he has failed to establish that the bonds, upon which this portion of the claim is based, were owned by a United States national or nationals at the time of loss. Thus, the Commission is constrained to deny this portion of the claim and it is hereby denied.

CERTIFICATION OF LOSS

The Commission certifies that HENRY GOLDMAN 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 Four Thousand Nine Hundred Twenty-Eight Dollars and Sixty Cents (\$4,928.60) 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

*Edward v. B. Sutton*

Edward v. B. Sutton, Chairman

APR 10 1968

*Theodore Jaffe*

Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: The above listed 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).)