

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

IN THE MATTER OF THE CLAIM OF

HARRY TOMS  
MAUDE TOMS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1988  
CU-2426

Decision No. CU  
1310

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by HARRY TOMS and MAUDE TOMS, and are based on their interest in bonds issued by the Cuba Railroad Company. Claimants have been nationals of the United States since their births in 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 interests 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 HARRY TOMS is, and since prior to October 13, 1960, has been the owner of four bonds in the original face amount of \$1,000.00 issued by the Cuba Railroad Company 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 3150, M 3151, M 3152 and M 3153. The record reflects further that claimant MAUDE TOMS did not have an ownership interest in the said bonds and the Commission concludes that the portion of FCSC Claim No. CU-1988 based on her interest in the bonds is hereby denied.

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 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. Claimant HARRY TOMS' bonds, therefore, represented a debt which was 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 HARRY TOMS 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.)

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The Commission finds that the total amount of the unpaid indebtedness on claimant HARRY TOMS' bonds was \$2,738.72 including the principal amount of \$2,540.00 and the interest due on the bond from November 1, 1958 to October 13, 1960, the date of loss in the amount of \$198.72.

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained by claimant HARRY TOMS 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

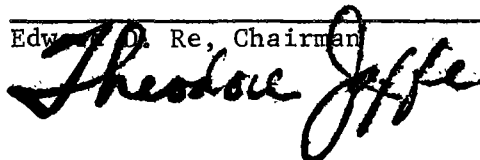
The Commission certifies that HARRY TOMS suffered a loss, as a result of action of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Seven Hundred Thirty-Eight Dollars and Seventy-Two Cents (\$2,738.72) with 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 21 1968**



Edward S. Re, Chairman



Theodore Jaffe, 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 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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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 DEPARTMENT: The above-listed certificates and/or bonds may have been returned to claimant and no payment should be made until they are resubmitted.

**CERTIFICATION**  
This is a true and correct copy of the decision of the Commission which was entered as the final decision on **MAY 27 1958**  
*Francis Thant*  
Clerk of the Commission

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