

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

IN THE MATTER OF THE CLAIM OF

HERMAN LAZERSON

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2209

Decision No. CU-1172

AMENDED PROPOSED DECISION

Under date of February 7, 1968 this claim was denied for failure to sustain the burden of proof. Subsequently, supporting evidence was submitted. Upon consideration of said evidence, it is

ORDERED that the Proposed Decision be and it is hereby amended.

Claimant, HERMAN LAZERSON, who owned two Accrual Certificates issued by the Consolidated Railroads of Cuba, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Railroad.

In our decision entitled the Claim of Meyer Lobsenz (Claim No. CU-1005 which we incorporate herein by reference), we held that the properties of the Railroad were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value of such certificates as the face value thereof.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Lobsenz decision; and he was an American national at the requisite times; that he has been the owner of two Accrual Certificates in the face amount of \$290.00 each issued by the Consolidated Railroads of Cuba since prior to October 13, 1960; and that he suffered a loss in the amount of \$580.00 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained 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 provision is made for the settlement thereof. (See Lobsenz, supra.)

The following Certification of Loss will be entered and the remainder of the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that HERMAN LAZERSON 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 Hundred Eighty Dollars (\$580.00) with interest at 6% per annum from August 6, 1960 to the date of settlement.

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

OCT 9 1968

*Leonard v. B. Sutton*  
Leonard v. B. Sutton, Chairman

*Theodore Joffe*  
Theodore Joffe, Commissioner

*Sidney Brodberg*  
Sidney Brodberg, 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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Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2209

Decision No. CU 1172

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 \$580.00, was presented by HERMAN LAZERSON and is based upon the asserted loss of bonds of the Consolidated Railroad of Cuba, Incorporated. Claimant states that he 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).)

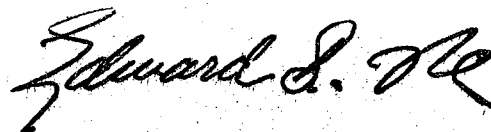
Claimant asserts the ownership and loss of bonds of the Consolidated Railroad of Cuba, Incorporated, but has not submitted documentary evidence in support of his claim. By Commission letter of August 8, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. However, evidence in response to this correspondence was not received.

On September 15, 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.

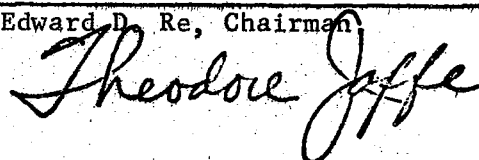
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary 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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CU-2209