

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

IN THE MATTER OF THE CLAIM OF

ANTONIO CORNAGLIA

Claim No. CU-2307

Decision No. CU-1860

Under the International Claims Settlement
Act of 1949, as amended

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 \$4,000.00 was presented by ANTONIO CORNAGLIA, and is based upon his interest in bonds issued by the Consolidated Railroads of Cuba. Claimant has been a national of the United States since his naturalization on January 10, 1933.

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 evidence of record, the Commission finds that claimant is, and since prior to October 13, 1960, has been the owner of eleven (11) bonds in the original face amount of 5,000 pesos each, and four (4) bonds in the original face amount of 1,000 pesos each, issued by the Consolidated Railroads of Cuba and known as 3% Cumulative Income Debentures, due October 1, 2001, issued under an Indenture of February 1, 1953, with the United States Trust Company of New York as Trustee. The 5,000 peso bonds in question are Nos. RV 13868, 13869, 13870, 13871, 13872, 13873, 13874, 13875, 13876, 13926 and 13927; and the 1,000 peso bonds in question are Nos. RM 19920, 19921, 19922 and 19923.

The record discloses that Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba) was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. This corporation 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. Therefore, claimant is entitled to file this claim based upon the bonds in question which represent a debt of a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Edward R. Smith, Claim No. CU-5001.)

Information available to the Commission establishes that the last payment of interest on the subject debentures was made on April 1, 1959; however, the nationalized enterprise owed, as of that date, a total of 14.3% of the face amount of the debentures issued for prior accumulation of unpaid interest. Claimant, therefore, sustained the loss of the face amount of his bonds, the 14.3% prior accumulation of interest, and interest at 3% per annum from April 1, 1959 to October 13, 1960, the date upon which the enterprise was nationalized by the Government of Cuba.

As to the dollar value of the bonds and interest, expressed in pesos, the Commission finds that the peso was valued at par with the dollar on the date of loss.

The Commission further finds that the amount of the unpaid indebtedness on claimant's bonds on October 13, 1960, the date of loss, was \$70,155.83 including the principal amount of \$59,000.00 and the interest due, to and including October 13, 1960, in the amount of \$11,155.83.

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 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 ANTONIO CORNAGLIA 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 Seventy-Thousand One Hundred Fifty-Five Dollars and Eighty-Three Cents (\$70,155.83) 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

MAY 15 1966

Leonard v. B. Sutter

Leonard v. B. Sutter, Chairman

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).)