

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

IN THE MATTER OF THE CLAIM OF

EMIL COHEN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2879

Decision No. CU - 4439

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by EMIL COHEN in the amount of \$11,362.15 plus accrued interest, and is based upon the asserted ownership and loss of his interest in bonds and accrual certificates issued by the Consolidated Railroads of Cuba and in preferred stock in The Cuba Railroad Company. Claimant has been a national of the United States since his birth in the United States on March 18, 1911.

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 five bonds, in the original face amount of 5,000 pesos, issued by the Consolidated Railroads of Cuba, of an issue known as "3% Cumulative Income Debentures, due October 1, 2001", Nos. RV584, 585, 586, 11032 and 11033 and the owner of thirty-six accrual certificates in the total face amount of 55,303 pesos issued by the same Cuban entity.

The Commission has found Consolidated Railroads of Cuba was nationalized by the Government of Cuba on October 13, 1960, (see the Claim of Edward R. Smith, Claim No. CU-5001), and that this type of claim is compensable to an American national under the facts and conditions

set forth in the Smith decision (supra) and in the Claim of Meyer Lobsenz, Claim No. CU-1005. We need not again detail herein the reasons or the method used in determining the following values:

\$5,945.41 per \$5,000 3% Cumulative Income Debenture,  
including interest to October 13, 1960 (Smith, supra);  
face amount of accrual certificate (Lobsenz, supra).

The Commission further finds that claimant suffered losses, within the meaning of Title V of the Act, in the amounts shown below:

5 3% Income Debentures	\$29,727.05
Accrual Certificates	<u>\$55,303.00</u>
Total	\$85,030.05

On the basis of evidence of record, the Commission also finds that claimant acquired additional securities as follows:

39 Accrual Certificates of Consolidated Railroads of Cuba  
in the face amount of 68,962 pesos;

50 shares of The Cuba Railroad Company preferred stock.

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 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 several occasions the Commission suggested to claimant that he submit certain evidence in connection with the last listed securities. Claimant has not established the date of acquisition of his securities and the consideration paid. The Commission finds that the burden of proof has not been met. Accordingly, this part of the claim is denied.

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 loss 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 Hisle Corporation, Claim No. CU-0644), and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that EMIL COHEN 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 Eighty-Five Thousand Thirty Dollars and Five Cents (\$ 85,030.05) with interest at 6% per annum from the date of loss to the date of settlement.

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

22 JAN 1970

*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].)