

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

IN THE MATTER OF THE CLAIM OF

ERVIN F. KRUEGER

Claim No. ~~CO~~-4899

Decision No. ~~CU~~ 1876

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

H. E. Koehler

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 \$3,000.00, was presented by ERVIN F. KRUEGER, and is based upon the asserted loss of interests in 3 bonds issued by Cuba Northern Railways Company, a Cuban corporation. 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).)

In support of this claim, filed on September 5, 1967, claimant submitted three Cuba Northern Railways Company bonds registered in the name of William J. Krueger, together with claimant's own statements as set forth in the claim form. On September 18, 1967, the Commission suggested, through counsel, that claimant submit additional evidence in support of his claim, to wit: evidence to establish his United States nationality, and evidence to establish the date or dates of purchase of subject bonds, and the consideration paid therefor. No reply to the Commission's letter was received.

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Thereafter, on November 16, 1967, counsel 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. In response to this Commission advice, by letter of January 27, 1968, claimant, through counsel, submitted his own affidavit and evidence of his birth.

An examination of claimant's affidavit disclosed that claimant asserted ownership of the bonds which are the subject matter of this claim through inheritance from his father in December 1963. Accordingly, by Commission letter of February 2, 1968, claimant, through counsel, was requested to submit proof of his late father's United States nationality, and evidence of claimant's inheritance of the bonds. In reply to this letter, on February 16, 1968, claimant submitted his own affidavit as proof of his father's nationality, and a form of affidavit which indicated that his father died intestate, leaving seven heirs including the claimant.

On March 1, 1968, claimant, through counsel, was advised that he should submit additional evidence to establish that he inherited interests in subject bonds to the exclusion of the other heirs listed in his affidavit. Although claimant was advised that this evidence should be submitted within 30 days from the Commission's letter of March 1, 1968, no additional evidence has been submitted; neither have claimant or counsel corresponded further with the Commission.

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The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership by the decedent 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

**MAY 15 1968**

*Leonard v. B. Sutton*

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Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

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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).)