

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

IN THE MATTER OF THE CLAIM OF

LEON M. EDELSON

Claim No. CU -4938

Decision No. CU 1849

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 \$546.00 was presented by LEON M. EDELSON, 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 July 21, 1919.

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 four bonds in the original face amount of 1,000.00 pesos each issued by the Consolidated Railroads of Cuba and known as a 3% Cumulative Income Debenture, due October 1, 2001, issued under an Indenture of February 1, 1953, with the United States Trust Company of New York as Trustee. The bonds in question are Nos. Rm 20184 through RM 20187, inclusive.

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 debenture 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 debenture 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 bond 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 \$4,756.32 including the principal amount of \$1,000.00 on each bond and the interest due, to and including October 13, 1960, in the amount of \$189.08 on each bond.

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.

Section 502(1)(A) of the Act defines the term "national of the United States" to mean a natural person who is a citizen of the United States. The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to 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).)

The remaining portion of this claim is based upon the loss of two bonds in the original face amount of 5,000.00 pesos each and ten bonds in the original face amount of 1,000.00 pesos each issued by the

Consolidated Railroads of Cuba and known as a 3% Cumulative Income Debenture, due October 1, 2001, issued under an Indenture of February 1, 1953, with the United States Trust Company of New York as Trustee. The bonds in question are Nos. RM 18283 through RM 18292, inclusive, and RV 13645 and RV 13646.

The record reflects that claimant purchased these bonds on May 14, 1962. Claimant, however, was not able to furnish any evidence of the owner or owners of these bonds between October 13, 1960, the date of loss, and May 14, 1962, the date of his acquisition thereof, or their United States nationality as required by Section 504 of the Act.

The Commission finds that claimant has not met the burden of proof in this portion of the claim in that he has failed to establish ownership by a United States national of rights and interests in property which was nationalized, expropriated, or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this portion of the claim and it is hereby denied.

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, 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.

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.

CERTIFICATION OF LOSS

The Commission certifies that LEON M. EDELSON 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 Four Thousand Seven Hundred Fifty-Six Dollars and Thirty-Two Cents (\$4,756.32) with interest thereon at 6% per annum from October 13, 1960 to date of settlement.

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

MAY 15 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, 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 re-submitted.

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).)