

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

IN THE MATTER OF THE CLAIM OF

WESLEY W. VALENTINE, EXECUTOR
OF THE ESTATE OF
LILLIAN M. VALENTINE, DECEASED

Claim No. CU-4980

Decision No. CU -1747

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Louis V. Moscato, Esq.

AMENDED PROPOSED DECISION

By Proposed Decision dated April 24, 1968, this claim was denied as claimant failed to meet the burden of proof. Subsequently claimant submitted additional evidence, and the matter having been considered, it is

ORDERED that the Proposed Decision be and it is hereby amended as follows:

In our decisions entitled the Claim of Edward R. Smith (Claim No. CU-5001) and 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 per 3% Cumulative Income Debenture, in face amount of \$5,000, at \$5,945.41 including interest to October 13, 1960; as well as accrual certificates issued by the Railroad.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant and decedent come within the terms of the Smith and Lobsenz decisions; that they were American nationals at the requisite times; that he has become the owner by inheritance of one 3% Income Debenture in the total face amount of \$5,000 and an Accrual Certificate in the face amount of \$1,450, which had been owned by a United States national since prior to October 13, 1960; and that he succeeded to and suffered a loss in the amount of \$7,395.41 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 provisions are made for the settlement thereof. (See Smith and Lobsenz, supra.)

Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that WESLEY W. VALENTINE, EXECUTOR OF THE ESTATE OF LILLIAN M. VALENTINE, DECEASED, succeeded to and 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 Seven Thousand Three Hundred Ninety-five Dollars Forty-one Cents (\$7,395.41) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

NOV 6 1968

Leonard v. B. Nathan
Leonard v. B. Nathan, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Treidberg
Sidney Treidberg, 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 Amended 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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Decision No. CU 1747

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Louis V. Moscato, Esq.

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 \$6,450.00, was presented by WESLEY W. VALENTINE, AS EXECUTOR OF THE ESTATE OF LILLIAN M. VALENTINE, DECEASED, and is based upon the asserted loss of stock interests in Consolidated Railroads of Cuba, a Cuban corporation. Claimant stated that the decedent, Lillian M. Valentine, had been a national of the United States since her birth; however, no documentary evidence has been submitted to establish her United States nationality.

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 20, 1967, claimant submitted a debenture and an interest certificate issued in the name of the late Lillian M. Valentine by Chesapeake and Potomac Telephone Company of Ohio, and his own statements as set forth in the claim form. Since sufficient evidence was not submitted to establish a compensable claim, by Commission letter of September 29, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. Specifically, it was suggested that he submit the following evidence: evidence to establish his late mother's United States nationality; a copy of Letters Testamentary naming him as the Executor of the Estate; a certified copy of the Last Will and Testament of the late Lillian M. Valentine; and evidence to establish the dates of purchase of the securities which are the subject matter of this claim. In response to this letter, claimant submitted only a copy of the Letters Testamentary and his own affidavit regarding his late mother's nationality.

Thereafter, by Commission Letter of October 23, 1967, it was suggested to claimant, through counsel, that he submit other appropriate evidence to establish his mother's nationality, as well as the previously requested Last Will and Testament of the late William M. Valentine, as admitted to probate. No response was received to the Commission's letter.

Finally, on November 17, 1967 and February 2, 1968, claimant was advised, through counsel, that the previously requested evidence had not been submitted. Additionally, he was advised that this evidence should be submitted within 30 days from the date of the Commission letter of February 2, 1968, and was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence or information has since been submitted; neither has the claimant nor counsel corresponded with the Commission.

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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

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).)

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