

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

IN THE MATTER OF THE CLAIM OF

NATIONAL FIRE INSURANCE COMPANY OF HARTFORD

Claim No. CU -0609

Decision No. CU

3524

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

R. Gregory Denne, Esq.

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 NATIONAL FIRE INSURANCE COMPANY OF HARTFORD in the amount of \$138,405.89, and is based upon the asserted loss of certain bonds of the Government of Cuba, two bank accounts in Cuba, and interests in Financiera Nacional de Cuba,

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 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

Claimant corporation, by an authorized officer, has certified that claimant was organized in the State of Connecticut and that at all pertinent times more than 50% of claimant's outstanding capital stock was owned by nationals of the United States. That officer has also certified that as of December 23, 1968 all of claimant's outstanding capital stock was owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record includes official receipts from the Cuban Treasury Department evidencing claimant's ownership of bonds of the issue known as 4% Republic of Cuba Veterans, Courts and Public Works Bonds, 1953-1983, in the aggregate face amount of \$100,000.00; copies of statements from the Royal Bank of Canada, Havana, Cuba Branch, showing the balances of claimant's two bank accounts in Cuba; original certificates evidencing claimant's ownership of 3 shares of stock in Financiera Nacional de Cuba; as well as statements and affidavits from officers of claimant concerning this claim.

On the basis of the entire record, the Commission finds that claimant owned certain assets in Cuba; namely, bonds of the issue known as 4% Republic of Cuba Veterans, Courts and Public Works Bonds, 1953-1983, in the aggregate face amount of \$100,000.00; two bank accounts with the Royal Bank of Canada, Havana, Cuba Branch; and 3 shares of stock in Financiera Nacional de Cuba with a face value of \$100.00 per share.

The Commission has found that Financiera Nacional de Cuba was a semi-public entity, controlled by the National Bank of Cuba, an agency of the Government of Cuba, and that Cuba had guaranteed the investments of stockholders of this entity. The Commission found that pursuant to Law 865 of August 17, 1960, Financiera Nacional de Cuba was liquidated and all its liabilities were assumed by Cuba; and that a claim for such loss arose under Title V of the Act on August 17, 1960, the date of liquidation. (See Claim of Phoenix Insurance Company, Claim No. CU-1913.)

The Commission finds that the amount of the unpaid debt owing to claimant on August 17, 1960 on account of its interests in Financiera Nacional de Cuba was \$300.00.

On October 24, 1960, the Government of Cuba published in its Official Gazette Resolution 3, pursuant to Law 851, which listed as nationalized the NATIONAL FIRE INSURANCE COMPANY OF HARTFORD. The Commission finds that claimant's two bank accounts and its bonds of the Government of Cuba were nationalized on October 24, 1960 within the meaning of Title V of the Act.

The Commission finds on the basis of the evidence of record that claimant had a credit balance with the Royal Bank of Canada, Havana, Cuba Branch, of 32,505.79 pesos as of August 31, 1960, equivalent to \$32,505.79, and a second account with the same bank, having a credit balance in the amount of \$3,900.10, as of October 1960, derived from the collection of coupon interest due claimant with respect to its Government of Cuba bonds. The Commission therefore finds that the aggregate value of claimant's bank accounts was \$36,405.89 on October 24, 1960, the date of loss.

The Commission further finds that claimant's Government of Cuba bonds had a face value of \$100,000.00. These bonds carried coupons for interest in the amount of \$20.00 each payable semiannually on November 1 and May 1

of each year until maturity on November 1, 1983. The bank statement with respect to claimant's second bank account shows that coupon No. 13, due May 1, 1960, was paid on account of 98 bonds of \$1,000.00 each, leaving an unpaid indebtedness of \$40.00 for the two remaining bonds. It further appears that no interest on these bonds was paid after May 1, 1960. The Commission therefore finds that as of October 24, 1960, the date of loss, the Government of Cuba owed claimant a debt in the amount of \$101,970.00, representing \$100,000.00 in principal and interest in the amount of \$1,970.00.

Accordingly, the Commission finds that the aggregate amount of claimant's losses was \$138,675.89.

It will be noted that the total amount of the losses 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 amount 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 respective dates of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that NATIONAL FIRE INSURANCE COMPANY OF HARTFORD 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 One Hundred Thirty-eight Thousand Six Hundred Seventy-five Dollars and Eighty-nine Cents (\$138,675.89) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

FEB 19 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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., 45C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)