

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

IN THE MATTER OF THE CLAIM OF

ST. PAUL FIRE AND MARINE INSURANCE COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0691

Decision No. CU 3284

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 \$157,881.05, was presented by ST. PAUL FIRE AND MARINE INSURANCE COMPANY, based on the asserted losses of interests in Financiera Nacional de Cuba and two bank accounts with the Chase Manhattan Bank, Havana, Cuba.

Under Title V of the International Claims Settlement Act of 1949, as amended [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.

An authorized officer of claimant has certified that claimant was organized in Minnesota and that at all pertinent times in excess of 99% of the outstanding capital stock of claimant was owned by persons who had registered addresses located within the United States. Thus less than 1% of the capital stock is assumed to be owned by nonnationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Financiera Nacional de Cuba

The Commission finds on the basis of the evidence of record that claimant owned 6 shares of stock in Financiera Nacional de Cuba. Evidence available to the Commission indicates that this entity was semi-public in nature and that its purpose was to finance reproduction of works of public interest pursuant to Law Decree No. 1015 of August 11, 1953, under which it was organized. The entity was authorized to issue 40,000 shares of stock valued at \$100.00 for each share, and over 50% of the shares, representing the controlling interest, was owned by the National Bank of Cuba, an agency of the Government of Cuba. Moreover, the evidence indicates that the stock certificates sold to the public bore the statement

that the Government of Cuba guarantees reimbursement of principal and accumulated dividends.

On their face the certificates appear to be shares of stock. However, it is clear that the Government of Cuba organized the entity for a public purpose, that the entity was controlled by Cuba, that only insurance companies and banks could purchase the securities, and that these securities were guaranteed by the Government of Cuba.

Upon careful consideration of this matter, the Commission holds that the securities issued in connection with Financiera Nacional de Cuba were not shares of stock of a corporation as that term is generally understood, but rather that they constituted debts owed by the Government of Cuba within the meaning of Section 502(3) of the Act.

Pursuant to Law No. 865 of August 17, 1960, Financiera Nacional de Cuba was liquidated and all obligations in connection therewith were assumed by the Government of Cuba. The Commission finds that the liquidation of Financiera Nacional de Cuba and the failure of Cuba to honor its debts gave rise to a valid claim against Cuba for the amount of the unpaid indebtedness on August 17, 1960, the date of liquidation.

The Commission further finds that the amount of the unpaid debt owing to claimant on August 17, 1960, the date of loss, was \$600.00.

Bank Accounts

The evidence of record establishes that claimant owned certain assets in Cuba; namely, two bank accounts with the Chase Manhattan Bank, Havana, Cuba.

On October 24, 1960, the Government of Cuba published in its Official Gazette Resolution 3, pursuant to Law 851, which listed as nationalized the St. Paul Fire and Marine Insurance Company. The Commission finds

that claimant's said bank accounts were nationalized by the Government of Cuba on October 24, 1960 within the meaning of Title V of the Act.

The record shows that claimant's accounts with the Chase Manhattan Bank, Havana, Cuba, had balances of \$7,695.00 as of August 31, 1960, and 149,616.05 pesos (equivalent to \$149,616.05) as of September 29, 1960, respectively. The Commission finds that the aggregate value of claimant's bank accounts was \$157,311.05 on the date of loss.

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, FCSC Claim No. CU-0644), and it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that ST. PAUL FIRE AND MARINE INSURANCE COMPANY 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 Fifty-seven Thousand Nine Hundred Eleven Dollars and Five Cents (\$157,911.05) with interest thereon 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

NOV 6 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, 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).)