

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

IN THE MATTER OF THE CLAIM OF

THE AMERICAN INSURANCE COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0832

Decision No. CU

3314

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 THE AMERICAN INSURANCE COMPANY in the amended amount of \$194,074.13, and is based upon the asserted loss of certain bonds of the Government of Cuba and a debt due from claimant's general agent in 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.

An officer of claimant corporation has certified that claimant was organized in the State of New Jersey and that at all pertinent times 100% of the outstanding capital stock of claimant corporation has been owned by nationals of the United States. The Commission finds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record includes: (1) copies of official receipts from an agency of the Government of Cuba and from Banco Pedroso, Havana, Cuba, evidencing claimant's ownership of bonds of the issue known as 4-1/2% Bond of the External Debt of the Republic of Cuba, 1937-1977, in the face amount of \$145,000.00; (2) copies of statements from claimant's general agent in Cuba evidencing debts due claimant and the extent to which interest had been paid on these bonds by Cuba; (3) copies of extracts from claimant's books of account relating to its transactions with its general agent in Cuba; (4) statements from officers of claimant made to the Commission as well as earlier statements to the Department of State concerning claimant's losses in Cuba.

The record shows that claimant conducted insurance business in Cuba through a general agent who was authorized to accept or reject risks, issue policies of insurance, collect premiums on policies and interest on claimant's Cuban Government bonds, pay losses, settle, adjust and compromise insurance claims against claimant, and perform other necessary functions in connection with these activities including the rendering of statements to claimant concerning these matters.

On the basis of the entire record, the Commission finds that claimant owned certain assets in Cuba; namely, bonds of the issue known as 4-1/2% Bond of the External Debt of the Republic of Cuba, 1937-1977, in the face amount of \$145,000.00, and a debt due from its general agent in 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 AMERICAN INSURANCE COMPANY. The Commission finds that claimant's said bonds and the debt due from its general agent in Cuba were nationalized by the Government of Cuba on October 24, 1960, within the meaning of Title V of the Act.

The nationalized bonds had attached coupons in the amount of \$22.50 payable semiannually for each \$1,000.00 face value of the bonds. The evidence of record establishes that as of October 24, 1960, the date of loss, the amount of the unpaid indebtedness on claimant's bonds was \$147,614.25, including the principal amount of \$145,000.00 and interest due as of October 24, 1960 in the amount of \$2,614.25.

It further appears from the evidence of record that claimant's general agent in Cuba owed a debt to claimant in the amount of \$52,393.63. The record shows that this amount included the collection of premiums on

insurance policies as well as interest on claimant's bonds. The Commission therefore finds that the amount of the debt due claimant from its general agent in Cuba was \$52,393.63 on the date of loss.

Accordingly, the Commission finds that the aggregate amount of claimant's loss was \$200,007.88.

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 date 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 THE AMERICAN 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 Two Hundred Thousand Seven Dollars and Eighty-eight Cents (\$200,007.88) with interest thereon at 6% per annum from October 24, 1960 to the date of settlement.

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

NOV 27 1968

Kennard v. B. Sutton

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