

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

IN THE MATTER OF THE CLAIM OF

CARL HERMAN PENZENER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0845

Decision No. CU-

1556

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in an unstated amount was presented by CARL HERMAN PENZENER, and is based upon the asserted ownership and loss of his interest in a bond issued by the Cuba Railroad Company. Claimant has been a national of the United States since his birth.

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).)

This claim is asserted on the basis of a loss arising out of the ownership of one bearer bond, in the original face amount of \$1,000.00, issued by the Cuba Railroad Company, of an issue known as "Improvement and Equipment Gold Bonds, 4%, due June 30, 1970" issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, with Chemical Bank New York Trust Company as Successor Trustee. The Commission has determined that the date of loss in connection with the subject bond issue was October 13, 1960. (See Claim of Edgar F. Corliss, Claim No. CU-0785).

Claimant has submitted documentary evidence of his United States nationality and he has also submitted a bearer bond numbered M 515 with unpaid coupons; however, claimant has not submitted any evidence to establish the date he acquired ownership of the subject bond. By Commission letter of January 16, 1968, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Specifically, he was advised that evidence to establish the date on which he purchased the bond or

alternatively, evidence that he owned the bond on and prior to October 13, 1960, should be submitted. By letter of March 5, 1968, claimant advised the Commission that he had owned the bond "for many years", but that he was unable to find any records to indicate the date of purchase or the price paid therefor.

The Commission finds that claimant has not met the burden of proof, in that he has failed to establish that he was the owner of the subject bond on the date of loss, or that the subject bond was owned by a national of the United States on the date of loss. Accordingly, this claim is 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 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision of the Commission which was entered as the final decision on MAY 21 1968

Francis Masters

Clerk of the Commission

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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