

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

IN THE MATTER OF THE CLAIM OF

MORTIMER RHONHEIMER,
AS EXECUTOR OF THE ESTATE
OF JEROME RHONHEIMER,
DECEASED

Claim No. CU-0875

Decision No. CU 2043

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Kurzman & Frank

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 MORTIMER RHONHEIMER, AS EXECUTOR OF THE ESTATE OF JEROME RHONHEIMER, DECEASED. The claim, in the amount of \$10,000.00, is based upon the loss of ownership interests in bonds issued by the Cuba Northern Railways Company.

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.

Claimant filed this claim in his representative capacity as the duly appointed Executor of the Estate of the late Jerome Rhonheimer. The record discloses that the decedent, a national of the United States since birth, died, testate, in the State of New York on May 11, 1964, and Letters Testamentary were issued to the claimant by the Surrogate Court of the County of New York; and that the beneficiaries of the estate of decedent, including Lester Breidenbach, Jr. and Marvin Rhonheimer, have been nationals of the United States since birth in the State of New York.

On the basis of evidence of record, the Commission finds that decedent was, and since prior to October 13, 1960, had been the owner of ten (10) bonds in the original face amount of \$1,000.00 each, issued by the Cuba Northern Railways Company and known as "First Mortgage Gold Bonds, 4%, due June 30, 1970" (originally First Mortgage Gold Bonds, 5-1/2%, due June 1, 1942), issued under an Indenture of July 1, 1927, with the First National City Bank of New York as Trustee. The bonds in question are Nos. TRM-3133 through TRM-3142, inclusive.

The record shows that Cuba Northern Railways Company was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. The Cuba Northern Railways Company, incorporated under the laws of Cuba, was wholly owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation. The Cuba Northern Railways Company thus would not qualify as a national of the United States under Section 502(1)(B) of the Act which defines the term "National of the United States" as including 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. Therefore, claimant is entitled to file this claim in his representative capacity based upon the bonds in question and these bonds represent a debt of a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Kentucky Home Mutual Life Insurance Company, Claim No. CU-1339.)

The record reflects that on April 4, 1933, Cuba declared a moratorium on mortgage indebtedness, which was later extended to June 1942. On June 4, 1940, a new Cuban Constitution was adopted, having certain "Transitory Provisions" which extended the maturity date on mortgage indebtedness in excess of \$800,000 to June 30, 1970 and provided for interest at 1% and amortization by certain annual installments.

In 1952, pursuant to a "Plan for Readjustment of Bonded Debt of the Company", bondholders surrendered their 5-1/2% Gold Bonds and received, in exchange, First Mortgage Gold Bonds, 4%, due June 30, 1970. The interest on these bonds, at 4% per annum, was payable on June 1 and December 1 of each year. The last payment of interest on these bonds was made on December 1, 1958.

Evidence of record establishes that each \$1,000.00 bond had an outstanding principal balance of \$635.00 on October 13, 1960, the date of loss.

The Commission therefore finds that the total amount of the unpaid indebtedness on decedent's ten (10) bonds on October 13, 1960, the date of loss, was \$6,825.60; including the principal amount of \$6,350.00 and interest due in the amount of \$475.60, for the period December 1, 1958, to October 13, 1960.

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 Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes 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 settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that MORTIMER RHONHEIMER, AS EXECUTOR OF THE ESTATE OF JEROME RHONHEIMER, 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 Six Thousand Eight Hundred Twenty-Five Dollars and Sixty Cents (\$6,825.60) with interest thereon at 6% per annum from October 13, 1960, the date of loss, to the date of settlement.

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

3 JUL 1968

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 or 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).)