

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

IN THE MATTER OF THE CLAIM OF

SANFORD H. ROSENBAUM AND CHESTER I.  
LAPPEN, TRUSTEES U/W OF SAMUEL B.  
ROSENBAUM, DECEASED

Claim No. CU-1403

Decision No. CU 1717

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Mitchell, Silberberg & Knupp

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 \$20,507.27 was filed on April 11, 1967 by SANFORD H. ROSENBAUM as Co-Executor of the Estate of Samuel B. Rosenbaum, Deceased, and is based on interests in bonds issued by the Consolidated Railroads of Cuba. Samuel B. Rosenbaum, now deceased, was naturalized on June 21, 1901.

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.

On the basis of evidence of record, the Commission finds that the decedent Samuel B. Rosenbaum had been, since prior to October 13, 1960, the owner of 40 bonds in the original face amounts of 5,000 pesos each issued by the Consolidated Railroads of Cuba and known as a 3% Cumulative Income Debenture, due October 1, 2001, issued under an Indenture of February 1, 1953, with the United States Trust Company of New York as Trustee. The bonds in question are Nos. RV 3547, 3754, 4138, 4139, 4183, 4436, 4441, 4736, 4737, 4760, 5131, 5132, 5606, 5607, 5993, 5994, 7854 through 7857, 12450 through 12454, 12922, 12923, 13062 through 13064, 13454, 13459, 13460 and 13473 through 13479.

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.

Samuel B. Rosenbaum died January 18, 1964 and under the Order of Final Distribution for the estate, dated April 24, 1967, the bonds upon which this claim is based were distributed to SANFORD H. ROSENBAUM and CHESTER I. LAPPEN, as Trustees Under the Will of Samuel B. Rosenbaum, Deceased. Accordingly they are substituted as claimants in this matter. The beneficiaries of the trusts involved, Sanford H. Rosenbaum and Mollie Chapman Rosenbaum, have been nationals of the United States since their births.

Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), was a Cuban corporation. The Consolidated Railroads of Cuba 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 "(B) 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."

The record shows that Consolidated Railroads of Cuba was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. The bonds in question therefore represented a debt of a nationalized enterprise as defined in Section 502(3) of the Act (supra).

The Commission concludes that as a result of nationalization of the properties of the Consolidated Railroads of Cuba, the decedent suffered a loss in connection with these bonds within the meaning of Title V of the Act. (See Claim of Edward R. Smith, Claim No. CU-5001.)

Information available to the Commission establishes that the last payment of interest on the subject debenture was made on April 1, 1959; however, the nationalized enterprise owed, as of that date, a total of 14.3% of the face amount of the debenture issued for prior accumulation of unpaid interest. Decedent, therefore, sustained the loss of the face amount of these bonds, the 14.3% prior accumulation of interest, and

interest at 3% per annum from April 1, 1959 to October 13, 1960, the date upon which the enterprise was nationalized by the Government of Cuba.

As to the dollar value of the bond and interest, expressed in pesos, the Commission finds that the peso was valued at par with the dollar on the date of loss.

The Commission further finds that the amount of the unpaid indebtedness on these bonds on October 13, 1960, the date of loss, was \$237,816.40 including the principal amount of \$200,000.00 and the interest due, to and including October 13, 1960, in the amount of \$37,816.40.

It will be noted that the total amount of loss 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 amounts which may be asserted by claimant as the extent thereof.

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 by the decedent shall be increased by interest thereon at 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 SANFORD H. ROSENBAUM AND CHESTER I. LAPPEN, TRUSTEES U/W OF SAMUEL E. ROSENBAUM, 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 Two Hundred Thirty-Seven Thousand Eight Hundred Sixteen Dollars and Forty Cents (\$237,816.40) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

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

APR 24 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: The above listed bonds may have been returned to claimant and no payment should be made until they are resubmitted.

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).)