

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

IN THE MATTER OF THE CLAIM OF

FRANK SERAFIN

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -1854

Decision No. CU

3230

PROPOSED DECISION

Claimant, FRANK SERAFIN, who owned a preferred stock interest in the Consolidated Railroads of Cuba and certain bonds issued by that corporation, asserts a claim in the amount of \$3,661.50 under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Railroad.

In our decision entitled the Claim of Cora W. Welsh (Claim No. CU-2503 which we incorporate herein by reference), we held that the properties owned by the Railroad were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that a claim of an American national holder of preferred stock is compensable under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per preferred share of \$272.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Welsh decision; that he was an American national at the requisite times; that he has been the owner of 200 shares of preferred stock in the Consolidated Railroads since prior to October 13, 1960; and that he suffered a loss in the amount of \$54,400.00 within the meaning of Title V of the Act with respect to such stock. Further, the Commission finds 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 the settlement thereof. (See Welsh, supra.)

The Commission further finds that the claimant was the owner of bonds issued by the Consolidated Railroads of Cuba known as "3% Cumulative Income Debentures, due October 1, 2001" in the total face amount of 25,000 pesos, which was the equivalent of \$25,000 on October 13, 1960, the date of nationalization of the property of the Railroad. Inasmuch as the issuing corporation was organized under the laws of Cuba and does not qualify as a corporate "national of the United States" as defined in Section 502(1)(B) of the Act, claimant is entitled to file a claim based upon his bonds as the debt of a nationalized enterprise within the meaning of Title V of the Act. (See Claim of Meyer Lobsenz, Claim No. CU-1005.) However, the claimant acquired these bonds by purchase on November 1, 1960 for a consideration of \$812.50.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been owned continuously by a national or nationals of the United States from the date of loss to the date of filing with the Commission. There is no evidence of record to establish that claimant's bonds were owned by a United States national from October 13, 1960, the date of loss, to November 1, 1960 when he acquired them. Evidence of record in other claims before the Commission discloses that the bonds of the issue here involved were owned and traded almost entirely by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were owned continuously by a national or nationals of the United States from the date of loss to the

date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The claim with respect to these bonds having arisen on October 13, 1960, and the claimant having succeeded to the claim as an assignee by purchase, the certification of loss with respect to the bonds is limited by the provisions of Section 507(b) of the Act to the actual consideration paid, or \$812.50. Further, the Commission has held that the amount certified, in such a case, shall be increased by interest thereon at the rate of 6% per annum from the date on which claimant acquired the claim, rather than the date of loss, to the date on which provisions are made for the settlement thereof. (See Wikler, supra.)

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.


CERTIFICATION OF LOSS

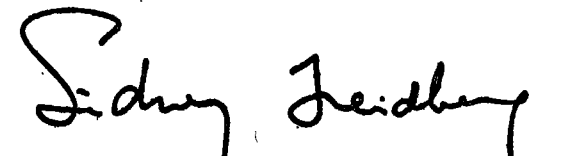
The Commission certifies that FRANK SERAFIN suffered a loss, as a result of actions of the Government of Cuba within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-five Thousand Two Hundred Twelve Dollars and Fifty Cents (\$55,212.50), with interest on \$54,400.00 thereof at 6% per annum from October 13, 1960, the date of loss, to the date of settlement, and with interest on \$812.50 thereof at 6% per annum from November 1, 1960, the date of purchase, to the date of settlement.

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

OCT 30 1968

  
Leonard V. Sutton, Chairman

  
Theodore Jaffe, Commissioner

  
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).)