

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

IN THE MATTER OF THE CLAIM OF

MANUFACTURERS HANOVER TRUST COMPANY
AS TRUSTEE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1901

Decision No. CU 1872

Counsel for Claimant:

Kelley, Drye, Newhall,
Maginnes & Warren

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 MANUFACTURERS HANOVER TRUST COMPANY, AS TRUSTEE, for \$44,059,000.00, based upon the failure of the Cuban Government to meet its obligations with respect to 4 1/2% Bonds of the External Debt, due in 1977, issued by that Government.

Under Section 503 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)7, the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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 claimant in "Annex C" to its claim form, filed on April 24, 1967, states:

"The claim is based on the loss of the principal and the interest due on the bonds, and alternatively on the loss of the amount of revenue from taxes and other economic resources which secured the payments of interest and sinking fund installment and which should have been deposited with the claimant.

"The claimant has no ultimate beneficial interest as a holder of any of the bonds but is making these alternative claims to fulfill its duty to protect the interests of holders of the bonds, as the holder of legal title to the claims represented thereby and as trustee".

Although the claimant herein is the agency through which bondholders might, under other circumstances, have had their rights protected under the bonds issued by the Government of Cuba, it does not itself claim herein to have suffered a loss within the meaning of Title V of the Act which the Commission might certify to the claimant and to the Secretary of State. Accordingly, the Commission's disposition of the instant claim can only be a denial thereof.

However, claimant's timely filing of a claim will protect the rights of holders of the bonds here involved, to the extent that any such holders

who have filed or who may file claims based upon such basis will have their claims considered by the Commission as timely filed, provided filing is made not later than March 1, 1970, to permit orderly disposition thereof before the termination of the claims program on May 1, 1970; and certifications will be made thereon as appropriate. (See Claim of Morgan Guaranty Trust Company of New York, as Trustee, Claim No. CU-1594.)

Accordingly, this claim is denied. The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

MAY 15 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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).)

CU-1901