

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

IN THE MATTER OF THE CLAIM OF

WILLIAM J. LUTZ, AS TEMPORARY
ADMINISTRATOR OF THE ESTATE
OF MARIE E. ROHN, DECEASED

Claim No. CU-1981

Decision No. CU 1168

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimant:

Davies, Hardy & Schenck

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$1,625.00, was presented by WILLIAM J. LUTZ, AS TEMPORARY ADMINISTRATOR OF THE ESTATE OF MARIE E. ROHN, DECEASED and is based upon the asserted loss of the decedent's interest in a bond issued by the Cuba Railroad Company. Claimant states that decedent was a national of the United States since the naturalization of her father on April 15, 1913.

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).)

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established

- (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and
- (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission. (See the Claim of Sigridur Einarisdottir, FCSC Claim No. CU-0728).

Claimant asserts this claim based on the decedent's interest in a bond issued by the Cuba Railroad Company, in the original amount of \$1,000.00. This bond is of an issue originally known as First Mortgage, 5%, Fifty Year Gold Bonds, due July 1, 1952; however, information available to the Commission discloses that most bonds of this issue were subsequently over stamped to set forth an outstanding principal of \$460.00 with interest of 4% per annum on the reduced balance. Claimant has submitted the subject Bond, No. 3987.

Claimant states that Bond No. 3987, a bearer bond with attached coupons dated from July 1940 through July 1952, was found in decedent's safe deposit box subsequent to her death on October 23, 1966. Claimant's attorneys have advised the Commission that they have no reason to believe that the decedent did not hold this bond prior to October 13, 1960; however, there is no evidence of record establishing that decedent owned the bond on the date of loss.

Additionally, claimant's attorneys have advised the Commission that the beneficial holders of this claim are the residuary legatees under the decedent's Will; that said legatees are residents and nationals of Austria and Germany; and that none of the beneficial holders of this claim are United States citizens. This claim was filed with the Commission on June 30, 1967 and is an extension of the Claim of Morgan Guaranty Trust Company, as Trustee, (FCSC Claim No. CU-1594), filed with the Commission on April 18, 1967.

The Commission finds that claimant has not met the burden of proof, in that he has failed to establish that the subject bond was owned by a national or nationals of the United States on the date of loss; additionally, the Commission finds that the claim was not owned by a national or nationals of the United States continuously from the date

of loss to the date of filing with the Commission. 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

FEB 7 1968

Edward D. Re

Edward D. Re, 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 MAR 13 1968

Frank M. Thomas
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).)

CU- 1981