

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

IN THE MATTER OF THE CLAIM OF

MAXWELL L. COLEMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3313

Decision No. CU

1522

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 \$1,412.00, was presented by MAXWELL L. COLEMAN, and is based upon an asserted loss arising out of the purchase and sale of bonds issued by the Consolidated Railroads of Cuba. Claimant stated that he has been a national of the United States since his birth in the United States.

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).)

Claimant asserts that he was the owner of bonds issued in the face amount of \$10,000.00 by the Consolidated Railroads of Cuba, a Cuban corporation. The record shows that Consolidated Railroads of Cuba was nationalized by Cuban Law 890, which was effective on October 13, 1960. Therefore, if claimant owned bonds issued by that company, they represented a debt of a nationalized enterprise as defined in Section 502(3) of the Act (supra). However, claimant states that he sold the subject bonds in 1965, at a net loss of \$1,412.00, prior to filing claim with the Commission. Accordingly, he is asserting this claim for the difference between his purchase price and the 1965 selling price.

It is apparent from claimant's own statements that he no longer owns a claim based upon a debt owed by a nationalized enterprise. He has neither alleged nor proven that he retained any interest in a claim

for such a debt subsequent to the sale of the subject bonds. While claimant may have sustained a loss on the sale of the bonds in 1965, it was not a loss on which the Commission, under the provisions of the Act, could render a favorable determination. (See the Claim of John A. Stiehler, FCSC Claim No. CU-2725.) 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

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, 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 MAY 21 1968

Francis Thacker

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).)

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