

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

IN THE MATTER OF THE CLAIM OF

PETER B. BOWMAN and PHYLLIS S.
BOWMAN, EXECUTORS OF THE ESTATE
OF GRACE ELIZABETH HARMON, DECEASED

Claim No. CU -4836

Decision No. CU 1442

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

M. Tom McClure, Esq.

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 PETER B. BOWMAN and PHYLLIS S. BOWMAN, EXECUTORS OF THE ESTATE OF GRACE ELIZABETH HARMON, DECEASED, in the amount of \$1,100.00 in connection with bonds known as 4-1/2% Bonds of the External Debt of the Republic of Cuba, 1937-1977. Decedent, Grace Elizabeth Harmon, had been a national of the United States since her 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.

On the basis of evidence of record, the Commission finds that Grace Elizabeth Harmon, deceased, was, and until the date of her death, had been, the owner of two bonds of the issue known as 4-1/2% Bonds of the External Debt of the Republic of Cuba, 1937-1977, bearing Nos. M 77528 and C 6109 in the principal amounts of \$1,000.00 and \$100.00, respectively, with 34 interest coupons attached, each in the amount of \$22.50 for the \$1,000.00 bond and \$2.25 for the \$100.00 bond payable semiannually, the earliest maturing on December 31, 1960, and the latest on June 30, 1977. Such bonds, as a "debt owed by the Government of Cuba", clearly constitute property within the meaning of the term as defined in Section 502(3) of the Act, quoted above.

The Commission further finds that Grace Elizabeth Harmon died testate on February 4, 1966 and that under the terms of her will this claim was inherited by PETER B. BOWMAN and PHYLLIS S. BOWMAN, both of whom are nationals of the United States by birth.

A study of the history of events with respect to bond obligations of the Republic of Cuba reveals that the Cuban Government defaulted on the payment of interest on bonds of this issue on December 31, 1960 (See Foreign Bondholders Protective Council, Inc., Annual Report 1958-1961, p. 52), but other than continued failure to make payments under its obligations, has taken no positive action concerning the rights of bondholders. The question arises whether such nonpayment may be deemed a nationalization, expropriation, intervention, or other taking of, or special measures directed against the property of the bondholder within the meaning of Section 503(a) of the Act. This question has been affirmatively decided by the Commission. See the Claim of Clemens R. Maise, (FCSC Claim No. CU-3191), which determined that the failure of the Government of Cuba to

make the obligated payment on December 31, 1960, even without express repudiation of the bonds, occurring as it did for the first time after January 1, 1959, constituted a taking on that date of the property of the bondholder within the meaning of the Act; and gives rise to a valid claim for the amount of the unpaid indebtedness as of that date.

The Commission finds that the amount of the unpaid indebtedness on decedent's bonds on December 31, 1960, the date of loss, was \$1,124.75 including the principal amounts of \$1,100.00 and the interest due on December 31, 1960 in the total amount of \$24.75.

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from December 31, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by any claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that PETER B. BOWMAN and PHYLLIS S. BOWMAN, EXECUTORS OF THE ESTATE OF GRACE ELIZABETH HARMON, 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 One Thousand One Hundred Twenty-Four Dollars and Seventy-Five Cents (\$1,124.75) with interest thereon at 6% per annum from December 31, 1960 to the date of settlement.

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

APR 17 1968
CERTIFICATION
This is a true and correct copy of the decision of the Commission which was entered as the final decision on **MAY 17 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).)