

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

IN THE MATTER OF THE CLAIM OF

JUNE DOROTHY FATOUT

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-4847

Decision No. CU - 1443

Counsel for claimant:

Goldsmith, Dyer, Thelin & Schiller  
by: Calvin Thelin, 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 JUNE DOROTHY FATOUT in the amount of \$1,446.50 in connection with bonds known as 4 1/2% Bonds of the External Debt of the Republic of Cuba, 1937-1977. Claimant asserts ownership of the subject bonds by inheritance from her deceased uncle, Carl Rosenau. The decedent acquired United States nationality by naturalization on August 1, 1906. Claimant has 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 decedent was, and since prior to December 31, 1960 had been the owner of two bonds of an issue known as 4-1/2% Bonds of the External Debt of the Republic of Cuba, 1937-1977, one bond bearing No. C5387 in the principal amount of \$100.00, with 34 interest coupons attached, each in the amount of \$2.25, and a second bond bearing No. M72171 in the principal amount of \$1,000.00, with 34 interest coupons attached, each in the amount of \$22.50. The coupons are 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 record shows that the claimant acquired the bonds by inheritance from her uncle, Carl Rosenau, who died on November 28, 1965.

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 obligation, 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 \$100.00 and \$1,000.00, 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.

CERTIFICATION OF LOSS

The Commission certifies that JUNE DOROTHY FATOUT succeeded to and suffered a loss, as a result of action 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 10 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

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

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Francis Masterson*

Clerk of the Commission

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).)