

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

IN THE MATTER OF THE CLAIM OF

ALEXANDER ROON

Claim No. CU -0362

Decision No. CU-1802

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on May 1, 1968;
No oral hearing requested; Hearing on the record.

Hearing on the record held on June 19, 1968

FINAL DECISION

The Commission issued its Proposed Decision in this claim on May 1, 1968, denying the claim for the reason that claimant failed to establish that he had ownership interests in certain stock of the Cuba Railroad Company and Consolidated Railroads of Cuba at the time such companies were nationalized or otherwise taken by the Government of Cuba on October 13, 1960. Further, with respect to a claim for loss of value of such stock interests between the time of purchase and the time of sale in June 1959, or prior thereto, the Commission also determined that claimant, in the absence of any specific reservation, transferred all rights incident to the stock at the time of sale. (See Claim of Michael Vasti, Claim No. CU-2145; and Claim of John A. Stiehler, Claim No. CU-2725.)

Claimant objected to the Proposed Decision, but has not submitted evidence or information which would warrant a different determination by the Commission.

Full consideration having been given to the objections of the claimant, and the entire record, including claimant's objections having been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby affirmed as the Final Decision of the Commission in this claim.

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

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

20 JUN 1960

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$23,143.32, was presented by ALEXANDER ROON, based upon the asserted loss of stock interests in the Cuba Railroad Company and Consolidated Railroads of Cuba. Claimant, ALEXANDER ROON, 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.

Evidence of record discloses that the claimant, ALEXANDER ROON, purchased approximately 1,210 shares of Cuba Railroad Company preferred stock and approximately 600 shares of Consolidated Railroads of Cuba preferred stock; that these shares were sold during or prior to June 1959, with the exception of 100 shares of Cuba Railroad preferred stock which claimant held as Custodian for Anthony Roon under the Uniform Gift to Minors Act of New York. However, such shares, assertedly held by claimant as Custodian, were not submitted to the Commission and the only evidence of such purchase was a transaction slip issued by Bache and Company of New York indicating that claimant acquired such stock as Custodian on February 25, 1960. No additional data was submitted in support of this portion of the claim.

Consolidated Railroads of Cuba and Cuba Railroad Company were listed as nationalized by Cuban Law 890, effective October 13, 1960, the date of its publication in the Cuban Official Gazette. Since these shares of stock represented an interest in companies taken by the Government of Cuba on that date, any stock interest was effectively taken from persons holding such securities at that time. In the instant claim, however, the claimant has indicated that his interest in these Cuban firms, with the exception of 100 shares, were sold during or prior to June 1959, before the Cuban firms were nationalized by the Government of Cuba. Additionally, claimant has not established the disposition of the 100 shares acquired in February 1960, or that they were in fact held by claimant at the time of nationalization of the Cuba Railroad Company.

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Under the provisions of the Act it is apparent that in order to establish a compensable claim, the claimant must establish ownership of the property in question at the time of the asserted loss, and ownership of the claim therefor continuously from the time of loss to filing claim with this Commission. In the instant claim, the claimant's stock interests, with the exception of 100 shares, were sold during or prior to June 1959, which was prior to the date of taking of the Cuban companies and prior to filing the instant claim. The disposition or continuity of ownership of the 100 shares has not been established, and the record fails to disclose ownership thereof at time of loss or at the time of filing this claim. Accordingly, the Commission finds that a claim based upon the stock interests in question would not be compensable under the provisions of the Act. (See Claim of Michael Vasti, Claim No. CU-2145.)

If claimant has based his claim, not on the loss of stock interests, but rather, for the difference between the value at time of purchase and the June 1959 selling price, then the question is presented as to whether a claim for such a loss is compensable under the Act.

Ownership of a stock interest in a foreign corporation vests, in the owner, two items of property which include an interest in the net worth or assets of the corporation and an interest in any claim for nationalization of such assets, either as a holder of common or preferred shares. However, upon a sale of that stock interest, and in the absence of any specific reservation, the seller transfers all rights incident to that stock. While claimant may have sustained a loss on a sale of his stock prior to nationalization of the companies in which he held interests, it was not a loss on which the Commission, under the provisions of the Act, could render a favorable determination. (See Claim of John A. Stiehler, Claim No. CU-2725.)

Since claimant has not established that he retained an interest in stock of a company which was nationalized or a claim for loss of such stock, and since a claim for the decrease in value of his stock would not be compensable under the Act, this claim must be, and is, denied.

The Commission deems it unnecessary to determine other elements of this claim.

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

MAY 1 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).)

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