

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

IN THE MATTER OF THE CLAIM OF

BENJAMIN KRUMHOLZ
SARAH KRUMHOLZ

Claim No. CU-0996

Decision No. CU-
1723

Under the International Claims Settlement
Act of 1949, as amended

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 \$3,000.00, was presented by BENJAMIN KRUMHOLZ and SARAH KRUMHOLZ, and is based upon the asserted ownership and loss of interests in bonds issued by the Cuba Railroad Company. Claimant, BENJAMIN KRUMHOLZ has been a national of the United States since his birth. Claimant, SARAH KRUMHOLZ has been a national of the United States since her marriage on November 29, 1921, to claimant, BENJAMIN KRUMHOLZ.

Under Section 503 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 the evidence of record, the Commission finds that claimants, BENJAMIN KRUMHOLZ and SARAH KRUMHOLZ, are, and since prior to October 13, 1960, have been the owners of the following bonds of the Cuba Railroad Company:

1. Five bonds, each in the original face amount of \$1,000.00 issued by Cuba Railroad Company and known as First Mortgage Gold Bonds, 4% due June 30, 1970 issued under a Supplemental Indenture of July 1, 1952, with Guaranty Trust Company of New York as Trustee (formerly First Mortgage, 50 year Gold Bond issued September 18, 1902, 5%, due July 1, 1952, with the Morton Trust Company of New York as Trustee). The Bonds in question are Nos. TRM 4736, TRM 4737, TRM 4738, TRM 4742 and TRM 4743;

2. Three bonds, each in the original face amount of \$1,000.00, issued by the Cuba Railroad Company, and known as "First Lien and Refunding Bonds, Series B, 4%, due June 30, 1970" issued under Supplemental Indentures of June 2, 1926 and July 1, 1952, with the First National City Bank as Successor Trustee. The bonds in question are numbered TRM 208, TRM 209, and TRM 210. As of 1952, the outstanding principal balance on each \$1,000.00 bond was \$635.00, with interest at 4% per annum to be paid on the principal balance.

The Cuba Railroad Company, incorporated in the State of New Jersey, was wholly owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation. The Cuba Railroad Company thus would not qualify as a national of the United States under Section 502(1) of the Act which defines the term "national of the United States" as including "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly

or indirectly 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

The properties of the Cuba Railroad Company were listed as nationalized in Cuba Law 890, published in the Cuban Official Gazette on October 13, 1960. Claimants' bonds, therefore, represented debts which were a charge upon nationalized property, as defined in Section 502(3) of the Act.

The Commission concludes that as a result of the nationalization of the properties of the Cuban Railroad Company, claimants suffered a loss in connection with their bonds within the meaning of Title V of the Act. (See Claim of Albert I. Harris, Claim No. CU-2398; and Claim of Joseph Gans, Claim No. CU-1720.)

With regard to the value of these bonds on the date of loss, information available to the Commission discloses the following: that no part of the outstanding principal balance was ever paid on the First Mortgage Gold Bonds, 4%, due June 30, 1970, and that the last payment of interest was made on January 1, 1959; and that the last payment of interest on the "First Lien and Refunding Bond, Series B, 4%, due June 30, 1970" was made on December 1, 1958.

The Commission therefore finds that:

1. The total amount of unpaid indebtedness on claimants' First Mortgage Gold Bonds on October 13, 1960, the date of loss, was \$2,464.30, including the total principal amount of \$2,300.00, and the interest due on the bonds in the total amount of \$164.30.

2. The total amount of the unpaid indebtedness on the "First Lien and Refunding Bonds, Series B, 4%, due June 30, 1970" was \$2,047.68, including the total principal amount of \$1,905.00, and the interest due on the bonds from December 1, 1959 through October 13, 1960, the date of loss, in the total amount of \$142.68.

The Commission therefore concludes that the total amount of the unpaid indebtedness on all of the claimants' bonds was \$4,511.98,

including the total principal amounts of \$4,205.00 and the interest due on these bonds as of October 13, 1960, the date of loss, in the total amount of \$306.98.

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 claimant as the extent thereof.

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

Accordingly, the Commission concludes that the amount of loss sustained by the claimants shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that BENJAMIN KRUMHOLZ and SARAH KRUMHOLZ 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 Four Thousand Five Hundred Eleven Dollars and Ninety-Eight Cents (\$4,511.98) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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).)

NOTICE TO TREASURY DEPARTMENT: The above listed bonds may have been returned to claimants and no payment should be made until they are resubmitted.