

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

IN THE MATTER OF THE CLAIM OF

ALBERT M. GREENE
GLADYS GREENE GOLDMAN

Claim No. CU-1068

Decision No. CU 2100

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, was presented by ALBERT M. GREENE, based on the asserted loss of his interests in bonds issued by the Cuba Railroad Company and Guantanamo and Western Railroad.

GLADYS GREENE GOLDMAN having petitioned to be joined in this claim, and the matter having been considered, it is

ORDERED that the petition be and it is hereby granted.

Both claimants have been nationals of the United States since birth.

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 owned 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 claimant ALBERT M. GREENE is, and since prior to October 13, 1960, has been the owner of twelve bonds in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company and known as First Mortgage Gold Bond, 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 3786, 3787, 3788, 3791 and 6203 through 6209, and TRM 4724.

Pursuant to the Supplemental Indenture of July 1, 1952, the bonds are over stamped to set forth an outstanding principal balance of \$460.00, and to provide total annual interest of 4% of the outstanding principal balance.

With regard to the value of the First Mortgage bonds on the date of loss, information available to the Commission discloses that no part of the outstanding principal balance was ever paid, and that the last payment of interest was made on January 1, 1959.

On the basis of evidence of record, the Commission further finds that claimant ALBERT M. GREENE is, and since prior to October 13, 1960, has been the owner of four bonds in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company and known as Improvement and Equipment Gold Bond, 4%, due June 30, 1970 issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, with Chemical Bank New York Trust Company as Successor Trustee. The bonds in questions are Nos. M 489, 490, 1300 and 2757.

By Indenture dated July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, the Cuba Railroad Company issued Dollar bonds secured by mortgage upon the realty and equipment of the Company. By the Supplemental Indenture of July 1, 1952, the bonds were reissued as 4% bonds, due June 30, 1970. 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 record discloses that the last payment of interest on the bonds was made on November 1, 1958.

On the basis of the evidence of record, the Commission finds that claimant GLADYS GREENE GOLDMAN is, and since prior to October 13, 1960, has been the owner of one bond, in the original face amount of \$5,000.00, issued by the Guantanamo and Western Railroad Company, and known as a First Mortgage Bond, 4%, Series A, due June 30, 1970, issued under an Indenture of January 1, 1928 and Supplemental Indentures of January 1, 1952 and October 1, 1959, with the Irving Trust Company of New York as Successor Trustee. The bond in question is No. RV-1.

The Guantanamo and Western Railroad Company, by Indenture dated January 1, 1928, issued bonds known as First Mortgage Bonds, 6%, Series A, due January 1, 1958. Thereafter, by Supplemental Indenture dated January 1, 1952, these bonds were reissued as First Mortgage Bonds, 4%, Series A, due July 30, 1970. As of 1952, no payment had been made against the face amount of the bonds. A second Supplemental Indenture, dated October 1, 1959, provided for the issuance of registered bonds, but made no change in the maturity date or interest rate to be paid thereon.

The record discloses that the last payment of interest on the bonds was made on January 1, 1959, and the face amount of the bonds was never reduced by a payment against principal.

The record discloses that Cuba Railroad Company and Guantanamo and Western Railroad Company were owned by Consolidated Railroads of Cuba

(Ferrocarriles Consolidados de Cuba). They were listed as nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. Consolidated Railroads was organized under the laws of Cuba and does not qualify as a corporate "National of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. Moreover, although Cuba Railroad was organized in New Jersey and Guantanamo and Western Railroad Company was organized in Maine, they are owned by Consolidated Railroads and do not qualify as nationals of the United States under Section 502(1)(B) (supra). (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

Therefore, claimants are entitled to file claim based upon the bonds in question which represent debts of nationalized enterprises within the purview of Section 502(3) of the Act. (See Claim of Joseph Gans, Claim No. CU-1720; Claim of Edgard F. Corliss, Claim No. CU-0785; and Claim of Olive L. Fair, Claim No. CU-8104.)

The Commission finds that the amount of the unpaid indebtedness on claimant ALBERT M. GREENE's First Mortgage bonds on October 13, 1960, the date of loss, was \$5,914.32 including the principal amount of \$5,520.00, and the interest due on the bonds in the amount of \$394.32.

The Commission finds that the total amount of the unpaid indebtedness on claimant ALBERT M. GREENE's Improvement and Equipment bonds was \$2,738.72 including the principal amount of \$2,540.00 and the interest due on the bonds from November 1, 1958 to October 13, 1960, the date of loss in the amount of \$198.72.

The Commission finds that the amount of the unpaid indebtedness on claimant GLADYS GREENE GOLDMAN's bond on October 13, 1960, the date of loss, was \$5,356.80 including the principal amount of \$5,000.00 and the interest due on the bond from January 1, 1959 to October 13, 1960 in the amount of \$356.80.

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 amounts of loss sustained by 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 ALBERT M. GREENE 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 Eight Thousand Six Hundred Fifty-Three Dollars and Four Cents (\$8,653.04) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement; and

the Commission certifies that GLADYS GREENE GOLDMAN 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 Five Thousand Three Hundred Fifty-Six Dollars and Eighty Cents (\$5,356.80) with interest thereon 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

JUL 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission, or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities or the loss here certified.

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).)