

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

IN THE MATTER OF THE CLAIM OF

ST. LOUIS UNION TRUST COMPANY
and EUGENIE C. THOMAS, Trustees
Under the Will of
FANNIE O. BOOTH, Deceased

Claim No. CU-1602

Decision No. CU-1756

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

By Proposed Decision issued April 24, 1968, this claim was denied for failure of proof. Claimants have since submitted additional evidence. The matter having been reconsidered, it is

ORDERED that the Proposed Decision be and it is hereby amended.

Claimant, ST. LOUIS UNION TRUST COMPANY and EUGENIE C. THOMAS, Trustees Under the Will of FANNIE O. BOOTH, Deceased, who owned "Belen" bonds issued by the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana, asserts a claim in the amount of \$949.70 under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company. FANNIE BOOTH died in 1948. The beneficial owners of the bonds subject of this claim are United States nationals.

In our decision entitled the Claim of Gustavus Basch (Claim No. CU-0972 which we incorporate herein by reference), we held that the properties of the College were nationalized or otherwise taken by the Government of Cuba on May 3, 1961, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per \$1,000 bond of \$459.17 including interest to May 3, 1961.

On the basis of evidence in the record in the instant case, the Commission finds that the beneficial owners of the bonds subject of the claim come within the terms of the Basch decision; that they were American nationals at the requisite times; and have been owners of two Belen bonds since prior to May 3, 1961; and that they suffered a loss in the total amount of \$918.34 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from May 3, 1961, the date of loss, to the date on which provisions are made for the settlement thereof. (See Basch, supra.)

Accordingly, the following certification of loss will be entered and the remainder of the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that ST. LOUIS UNION TRUST COMPANY and EUGENIE C. THOMAS, Trustees under the Will of FANNIE O. BOOTH, Deceased, 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 Nine Hundred Eighteen Dollars and Thirty-Four Cents (\$918.34) with interest at 6% per annum from May 3, 1961 to the date of settlement.

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

FEB 26 1969

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 claimant establishes retention of the securities for 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 Amended 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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IN THE MATTER OF THE CLAIM OF

ST. LOUIS TRUST COMPANY AND EUGENIE P.
THOMAS, TRUSTEES UNDER THE WILL OF
FANNIE O. BOOTH, DECEASED

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1602

Decision No. CU 1756

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$949.70, was presented by ST. LOUIS TRUST COMPANY AND EUGENIE P. THOMAS, TRUSTEES UNDER THE WILL OF FANNIE O. BOOTH, DECEASED and is based upon the asserted loss of bondholder interests in two bonds of the Religious Community of the Company of Jesus of Bethlehem College of Havana.

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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

This claim is based upon bonds which are said to be part of the residual estate of Fannie O. Booth, deceased. Claimants have submitted the bonds, two birth certificates an affidavit and copies of a will said to have been executed by decedent in 1933. According to the terms of the latter instrument, the residual portions of decedent's estate were to be the subject of a trust, administered by claimants. Claimants have named seven persons as presently surviving beneficiaries under the terms of the latter trust, but have submitted evidence of the United States nationality for only two of them. Further, no evidence was submitted to establish that the will submitted was ever admitted to probate.

By Commission letter of August 1, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of September 5, 1967, the Commission made additional suggestions to claimants concerning the submission of supporting evidence in this matter. Other than that mentioned above, however, no evidence in response to this correspondence has been received to date.

On December 13, 1967, claimants were invited to submit any evidence available to them within 45 days from that date, and they were informed, that absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership by nationals of the United States of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

APR 24 1968

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).)

CU-1602