

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

IN THE MATTER OF THE CLAIM OF

OLGA SCHUSSLER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2308
Claim No. CU-8159

Decision No. CU
2020

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by OLGA SCHUSSLER, and is based on her interest in bonds issued by the Cuba Railroad Company. Claimant has been a national of the United States since her naturalization in 1938.

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 interests 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 claimant is, and since prior to October 13, 1960, has been the owner of 10 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 question are Nos. M 1484 through M 1493.

On the basis of evidence of record, the Commission also finds that claimant is, and since prior to October 13, 1960, has been the owner of 20 bonds, in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company, and known as "First Lien and Refunding Bond, Series A, 4%, due June 30, 1970" issued under an Indenture of March 10, 1922 and a Supplemental Indenture dated July 1, 1952, with the First National City Bank of New York as Successor Trustee. The bonds in question are numbered TRM 1027 through 1036; M 85 through 89; and M 3118, 3119, 3125 through 3127.

The record discloses that the Cuba Railroad Company was owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba). It was 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 Railroads was organized in New Jersey, it is wholly owned by Consolidated Railroads and does not qualify as a national 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. [July-Dec. 1966]).

Therefore, claimant is entitled to file these claims 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 Edgar F. Corliss, Claim No. CU-0785, and Claim of Albert I. Harris, Claim No. CU-2398.)

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.

The Commission finds that the total amount of the unpaid indebtedness on claimant's Improvement and Equipment Bonds was \$6,846.80 including the principal amount of \$6,350.00 and the interest due on the bond from November 1, 1958 to October 13, 1960.

With respect to the First Lien and Refunding Bonds, the Cuba Railroad Company, by Indenture dated March 10, 1922, and Supplemental Indentures dated June 2, 1926 and July 1, 1952, issued Dollar bonds secured by mortgage upon the real property of the Company. By the Supplemental Indenture of July 1, 1952, the bonds were re-issued 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 these bonds was made on December 1, 1958.

The Commission finds that the total amount of the unpaid indebtedness on the First Lien and Refunding Bonds of the claimant was \$13,651.20, including the principal amounts of \$635.00 on each bond, and the interest due on each bond from December 1, 1958 through October 13, 1960.

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 the claimant 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 OLGA SCHUSLER 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 Twenty Thousand Four Hundred Ninety-Eight Dollars (\$20,498.00) 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

26 JUN 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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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NOTICE TO TREASURY DEPARTMENT: This claimant may be the subject of another certification of loss in CU-5088.

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 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 or the loss here certified.

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