

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

IN THE MATTER OF THE CLAIM OF

ATLANTIC MUTUAL INSURANCE COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2610

Decision No. CU - 3397

Counsel for claimant:

Bigham, Englar, Jones & Houston

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 ATLANTIC MUTUAL INSURANCE COMPANY in the amount of \$35,755.45, and is based upon the asserted loss of certain bonds of the Government of Cuba and a bank account in Cuba.

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 502(1)(B) of the Act defines the term "National of the United States" as 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.

An officer of claimant corporation, a mutual insurance company, has certified that claimant was organized in the State of New York and that at all pertinent times in excess of 90% of claimant's policy holders, the beneficial owners of claimant, have been nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record includes a copy of an official receipt from the Cuban Ministry of Finance, evidencing claimant's ownership of bonds of the issue known as 4-1/2% Bond of the External Debt of the Republic of Cuba, 1937-1977, in the face amount of \$25,000.00; and copies of statements from claimant's general agent in Cuba, as well as extracts from claimant's records, evidencing the bank account for which claim is made.

On the basis of the entire record, the Commission finds that claimant owned certain assets in Cuba; namely, bonds of the issue known as 4-1/2% Bond of the External Debt of the Republic of Cuba, 1937-1977 in the face amount of \$25,000.00, and a bank account with the First National Bank of Boston, Havana, Cuba.

On November 25, 1959, the Government of Cuba published in its Official Gazette Law No. 647 which authorized the Minister of Labor, in such cases as he deemed it necessary, to order the intervention of

enterprises or working centers. Law 843, published in the Official Gazette of July 6, 1960 gave the Labor Ministry unilateral authority to extend the period of its intervention of any establishment beyond the six months period provided in Law 647. Resolution 7266 of October 18, 1961 of the Ministry of Labor, intervened claimant's branch office located at 113 Empedrado Street, Havana, Cuba. Thereafter, the branch was listed as nationalized by Resolution 1032 published in the Cuban Official Gazette on April 28, 1964, pursuant to Law 890.

Based upon the foregoing evidence, the Commission finds that claimant sustained a loss of its bonds and bank account on October 18, 1961 within the meaning of Title V of the Act.

The record shows that the bonds in the face amount of \$1,000.00 each, or a total of \$25,000.00, had attached coupons in the amount of \$22.50 payable semiannually for each \$1,000.00 face value of the bonds, the first of these coupons having a maturity date on December 31, 1960, and the last maturing on June 30, 1977. Accordingly, the Commission finds that on October 18, 1961, the date of loss, the amount of the unpaid indebtedness on claimant's bonds was \$26,465.75, including the principal amount of \$25,000.00, and interest due as of October 18, 1961 in the amount of \$1,465.75.

It further appears from the evidence of record that claimant owned a bank account at the First National Bank of Boston, Havana, Cuba, with a balance of \$9,567.95 on the date of loss.

Accordingly, the Commission finds that the aggregate amount of claimant's losses was \$36,033.70.

It will be noted that the total amount of the losses found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amount which may be asserted by claimant as the extent thereof.

The Commission has decided that in certification of loss 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), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that ATLANTIC MUTUAL INSURANCE COMPANY 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 Thirty-Six Thousand Thirty-Three Dollars and Seventy Cents (\$36,033.70) with interest at 6% per annum from October 18, 1961 to the date of settlement.

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

DEC 18 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 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 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).)