

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

IN THE MATTER OF THE CLAIM OF

THE CHASE MANHATTAN BANK, N.A.
AS TRUSTEE UNDER THE CUBAN RAILROAD
COMPANY EQUIPMENT TRUST OF 1954

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2687
Claim No. CU-2688

Decision No. CU 5386

Counsel for claimant:

Milbank, Tweed, Hadley & McCloy
By Andrew J. Connick, Esq.

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 THE CHASE MANHATTAN BANK, N.A. AS TRUSTEE, for \$899,792.00, as amended, based upon the failure of the Cuba Northern Railway Company to meet its obligations with respect to a Trust Agreement and a lease dated October 1, 1954.

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.

Claimant has asserted a claim against the Government of Cuba for the balance due and owing on a certain lease for railroad equipment leased to the Cuba Northern Railway Company. According to evidence of record, the Railway Company was nationalized by the Government of Cuba on October 13, 1960 pursuant to Law 890 and the equipment subject to the lease was taken at that time.

The record shows that on October 1, 1954, claimant's predecessor, Chase National Bank of the City of New York, entered into a trust agreement and a lease agreement with the Cuba Northern Railway Company. Under the terms of the trust agreement, the bank as trustee received title to certain railroad equipment purchased by the railroad. The bank thereupon issued Trust Certificates which were purchased by the General Motors Corporation and secured by the railroad equipment. These certificates were to be paid off over a term of years ending in 1965, payment being made by the trustee with funds obtained from the Company under the lease whereby the Company leased back the trust property and agreed to pay a sum equal to the amount due on the trust certificates. Upon expiration of the lease and payment of the sums due thereunder, the trust certificates would be retired and title to the trust property would be transferred to the railroad. All sums received by the trustee were for the benefit of the certificate holders, no benefits inuring to claimant.

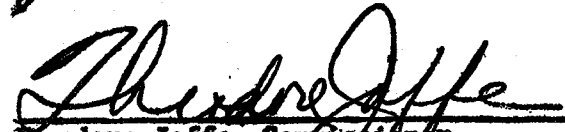
It is conceded that claimant was the owner of record of the railroad equipment, the trust property. However, the interest held was only the bare title, the beneficial interests belonging to the holders of the trust certificates as set forth in the trust agreement. The agreement specifically states that the trustee shall hold the trust equipment for the equal benefit of the holders of the trust certificates and the trustee shall be entitled to enforce the terms of the lease for all holders of the trust certificates, acting in its discretion as it deems most beneficial to those holders.

Accordingly, the Commission finds that claimant is not the true party in interest and has not sustained a loss within the meaning of Title V of the Act, any loss resulting from the actions of the Government of Cuba relating to the trust property having been suffered by the holder of the trust certificates which filed a claim, Claim No. CU-3088, based upon the same trust agreement and actions of Cuba. This claim, therefore, must be and hereby is denied.

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

JUL 29 1970


Lytle S. Garlock, Chairman


Theodore Jaffe, Commissioner


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).)

CU-2687 and CU-2688