

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

IN THE MATTER OF THE CLAIM OF

FLORA C. PIZZIMENTI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2700

Decision No. CU-741

AMENDED PROPOSED DECISION

By Proposed Decision dated November 30, 1967, the Commission denied this claim on the ground that claimant had not met the burden of proof in that she had failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Subsequent thereto, claimant submitted additional evidence. Upon full consideration of the evidence of record, it is

ORDERED that the Proposed Decision be and the same is hereby amended to read as follows:

On the basis of evidence of record, the Commission finds that claimant FLORA C. PIZZIMENTI is, and since prior to October 13, 1960, has been the owner of three bonds, in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company, and known as "First Lien and Refunding Bonds, 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 M 76, M 3597 and M 3615.

The Commission further finds that claimant is, and since prior to October 13, 1960, has been the owner of 15 bonds, in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company; and known as "First Lien and Refunding Bonds, Series B, 4%, due June 30, 1970" issued under Supplemental Indentures of June 2, 1926 and July 1, 1952, with the First National City Bank of New York as Successor Trustee. The bonds in question are numbered M 56 through M 68 inclusive, M 72 and M 76.

The record discloses that the Cuba Railroad Company, incorporated in the State of New Jersey, was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. This corporation was wholly-owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation and therefore 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. Therefore, claimant is entitled to file this claim based upon the bonds in question which represent debts which were a charge upon nationalized property within the purview of Section 502(3) of the Act. (See Claim of Albert I. Harris, Claim No. CU-2398.)

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.

Information available to the Commission discloses that the last payment of interest on the bonds was made on December 1, 1958. Therefore, the Commission finds that the total amount of the unpaid indebtedness on the bonds of the claimant was \$12,286.08, 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, in the amount of \$47.56.

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 amount of loss sustained by 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.

It will be noted that the total amount of loss 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 amounts which may be asserted by claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that FLORA C. PIZZIMENTI 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 Twelve Thousand Two Hundred Eighty-Six Dollars and Eight Cents (\$12,286.08) 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 Amended
Proposed Decision of the
Commission

MAY 29 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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 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 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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WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

FLORA CALARCO PIZZIMENTI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2700

Decision No. CU-741

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 \$11,430.00, was presented by FLORA CALARCO PIZZIMENTI and is based upon the asserted loss of the value of an investment in bonds of the Cuba Railroad company. Claimant has been a national of the United States since her birth in the United States.

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).)

Claimant has failed to submit evidence to substantiate her claim. By Commission letter of August 7, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letters of September 1, 1967, September 27, 1967, and October 31, 1967, the Commission made additional suggestions to claimant, concerning the submission of supporting evidence in this matter. Specifically, the Commission requested that the original bonds be submitted together with evidence of date purchased and price paid, indicating that a favorable recommendation on the claim could not be anticipated in the absence thereof. However, no evidence in response to these correspondences has been received to date.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise

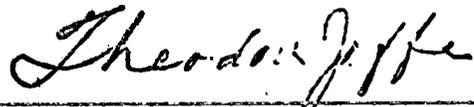
taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

30 NOV 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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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