

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

IN THE MATTER OF THE CLAIM OF

ESTATE OF HENRY C. BEQUEST

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. **CU**-2936

Decision No. **CU**

**2274**

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in an unspecified amount was presented by Hermann Spiess, as Executor of the Estate of Henry C. Bequest and is based upon the asserted loss of interests in bonds and an accrual certificate of the Consolidated Railroads of 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 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 securities which were registered in the name of Henry C. Bequest in 1953, and said to have been inherited by Theodora Spiess, Hermann Spiess, Margaret Bieber and John E. Bieber, Jr. upon Mr. Bequest's death on January 9, 1961. The interests of Margaret Bieber are said to have been succeeded to by Theodora Spiess and Hermann Spiess upon her death in 1965, prior to the date of filing the claim in 1967.

Other than the securities; a "Release" of the Queens County Surrogate Court in New York dated in 1962 (release of executor), which lists the executor and the beneficiaries of the Estate of Henry C. Bequest, without designating the extent of any interests held by them; evidence of the United States nationality of Hermann Spiess, Theodora Spiess, Henry C. Bequest and John Bieber; and Mr. Spiess's own statements, no evidence has been submitted to date.

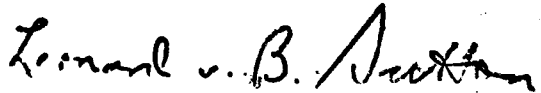
By Commission letters dated August 25, 1967 and September 22, 1967, Mr. Spiess was advised as to the type of evidence appropriate for submission to establish this claim. It was specifically suggested that a certified copy of the Last Will and Testament of Henry C. Bequest be submitted together with evidence of the United States nationality of Margaret Bieber.


On November 27, 1967, Mr. Spiess was advised to submit any evidence available to him within 45 days of that date. Thereafter, by letters dated April 16, 1968 and May 17, 1968, the Commission again made suggestions to Mr. Spiess concerning the submission of supporting evidence in this claim, and on the latter occasion he was advised that absent receipt of suggested evidence within 30 days of that date, a determination would be made in this claim on the basis of the existing record. Other than additional statements made by Mr. Spiess, no further evidence has been received to date.

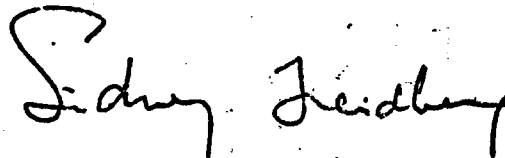
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership by nationals of the United States of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to 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

JUL 24 1968

  
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Leonard v. B. Sutton, Chairman

  
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Theodore Jaffe, Commissioner

  
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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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