

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

IN THE MATTER OF THE CLAIM OF

IRVING TRUST COMPANY, AS SUCCESSOR-TRUSTEE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3101

Decision No. CU - 209

Counsel for claimant:

Davies, Hardy & Schenck

Appeal and objections from a Proposed Decision entered August 23, 1967.
No oral hearing requested.

Hearing on the record held on October 18, 1967.

FINAL DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by IRVING TRUST COMPANY, AS SUCCESSOR-TRUSTEE, for \$973,000.93, based upon the failure of the Cespedes Sugar Company to meet its obligations with respect to bonds of an issue known as First Mortgage 7 1/2% Sinking Fund Gold Bonds dated September 1, 1924 and due June 30, 1970. The bonds were a charge upon property of the Cespedes Sugar Company, assertedly nationalized by the Government of Cuba.

The claimant submitted a list of twelve names of individuals and companies who might be holders of bonds of this issue. The Commission, having notified those individuals and companies of their right to file claims with the Commission, denied the instant claim by Proposed Decision dated August 23, 1967, on the ground that the bondholders are the proper parties claimant as to any losses sustained by reason of failure of the Cespedes Sugar Company to meet its obligations under the bonds.

Claimant has objected to the Proposed Decision, stating that as the holder of the lien upon the property of the Cespedes Sugar Company, for

the benefit of the bondholders, it is the only party having standing to assert any claim with respect to such property. It urges that its claim be allowed as a charge upon property nationalized, to the extent of the amount of loss determined on claims filed by bondholders, and be denied as to the balance.

Successful prosecution of a claim results, under Section 507(a) of the Act, in certification by the Commission to the claimant of the amount determined to be the loss or damage suffered by such claimant which is covered by Title V, and certification by the Commission to the Secretary of State of such amount and the basic information underlying it.

Although the claimant herein is the agency through which bondholders might, under other circumstances, have had their rights protected under the lien upon property of the Cespedes Sugar Company, it does not itself claim to have suffered a loss within the meaning of Title V of the Act which the Commission might certify to the claimant and to the Secretary of State. Accordingly, the Commission's disposition of this claim can only be a denial thereof.

However, claimant's timely filing of a claim will protect the rights of holders of the bonds here involved, to the extent that any such holders who have filed or who may file claims based upon such bonds will have their claims considered by the Commission as timely filed, provided filing is made not later than March 1, 1970, to permit orderly disposition thereof before the termination of the claims program on May 1, 1970; and certifications will be made thereon as appropriate.

Accordingly, the Proposed Decision of August 23, 1967, is affirmed,
and this claim is denied.

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

OCT 25 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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Counsel for claimant:

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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 IRVING TRUST COMPANY, AS SUCCESSOR-TRUSTEE, for \$973,000.93, based upon the failure of the Cespedes Sugar Company to meet its obligations with respect to certain bonds because of the nationalization of said enterprise by the Government 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. That section 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 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.

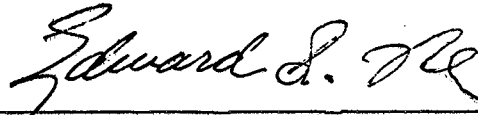
The claimant, in conjunction with this claim, submitted a list of twelve names of individuals and companies who might be holders of First Mortgage 7-1/2% Sinking Fund Gold Bonds of Cespedes Sugar Company dated September 1, 1924 and due June 30, 1970. A search of Commission records discloses that all twelve individuals and companies now in question have been individually notified by the Commission concerning their rights to file claims with this Commission.

It not appearing that claimant is authorized to pursue further these claims on behalf of the bondholders concerned, this claim is denied on the ground that as between the claimant herein and the individual bondholders, the latter are the proper parties claimant as to the asserted losses involved.

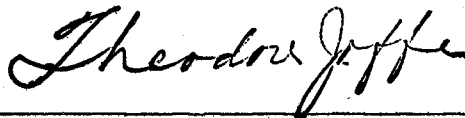
The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

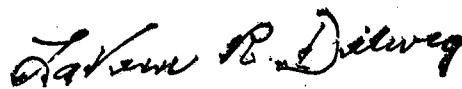
23 AUG 1967



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).)