

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

IN THE MATTER OF THE CLAIM OF

MARK P. STUMPF, TRUSTEE UNDER ARTICLE
FIFTH OF THE LAST WILL AND TESTAMENT
OF HUGO KAMMER, DECEASED

Claim No. CU - 3586

Decision No. CU 1812

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimant:

Wilkie Farr Gallagher Walton
& Fitzgibbon

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$8,509.00 was presented by MARK P. STUMPF, TRUSTEE UNDER ARTICLE FIFTH OF THE LAST WILL AND TESTAMENT OF HUGO KAMMER, DECEASED, and is based on an interest in bonds issued by the Cuba Railroad Company. Decedent, Hugo Kammer has been a national of the United States since his naturalization on June 2, 1947.

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 interests 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.

The record indicates that by the terms of Article Fifth of the Last Will and Testament of Hugo Kammer, deceased, and upon the death of his wife Ella Kammer on November 1, 1951, a national of the United States since her birth, Andre Kammer, a national of the United States since his naturalization on July 31, 1947, became the owner of the bonds forming the basis of the present claim.

On the basis of evidence of record, the Commission finds that claimant herein as trustee for the benefit of Andre Kammer, is, and since prior to October 13, 1960, has been the owner of 10 bonds in the original total face amount of \$10,000.00 issued by the Cuba Railroad Company and known as "Improvement and Equipment Gold Bond, 4%, due June 30, 1970" issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, with Chemical Bank New York Trust Company as Successor Trustee. The bonds in question are Nos. M1076 through M1085, inclusive.

The Cuba Railroad Company, organized in the State of New Jersey, was a wholly-owned subsidiary of Consolidated Railroads of Cuba, a Cuban corporation. By Indenture dated July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, the Cuba Railroad Company issued Dollar bonds secured by mortgage upon the realty and equipment of the Company. By the Supplemental Indenture of July 1, 1952, the bonds were reissued 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.

The record discloses that the last payment of interest on the bonds was made on November 1, 1958. The properties of the Cuba Railroad Company were listed as nationalized by Cuban Law 890, effective October 13, 1960, the date of its publication in the Cuban Official Gazette. The bonds, forming the basis of the present claim, therefore, represented a debt which was a charge upon nationalized property as defined in Section 502(3) of the Act.

The Commission concludes that, as a result of the nationalization of the properties of the Cuba Railroad Company, a loss was suffered in connection with the subject bonds, within the meaning of Title V of the Act. (See Claim of Edgar F. Corliss, Claim No. CU-0785.)

The Commission finds that the total amount of the unpaid indebtedness on these bonds was \$6,846.80, including the total principal amount of \$6,350.00 and the interest due on the bonds from November 1, 1958 to October 13, 1960, the date of loss, in the total amount of \$496.80.

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 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.

CERTIFICATION OF LOSS

The Commission certifies that MARK P. STUMPF, TRUSTEE UNDER ARTICLE FIFTH OF THE LAST WILL AND TESTAMENT OF HUGO KAMMER, DECEASED succeeded to and suffered a loss, as a result of action 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 Six Thousand Eight Hundred Forty Six Dollars and Eighty Cents (\$6,846.80) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement, for the sole use and benefit of Andre Kammer.

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

MAY 1 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

NOTICE TO TREASURY DEPARTMENT: The above listed bonds may have been returned to claimant and no payment should be made until they are re-submitted.

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).)