

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

IN THE MATTER OF THE CLAIM OF

FREEMAN-TOOR CORPORATION

Claim No. CU-0833

Decision No. CU 4280

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Robert L. Mullins, Esquire

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 FREEMAN-TOOR CORPORATION in the amount of \$45,420.40, based upon the asserted loss of payment for merchandise shipped to 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).)

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record reflects that shoes were sold and delivered on open account in 1959 by Freeman Shoe Corporation, a corporation organized under the laws of Wisconsin on June 18, 1921, to A. Miranda & Co., doing business as El Lazo de Oro, Manzana de Gomez Block, Havana, Cuba. On June 30, 1965, Freeman Shoe Corporation merged into FREEMAN-TOOR CORPORATION, claimant herein and which was incorporated under the laws of Delaware. On June 8, 1966 claimant became a wholly owned subsidiary of United States Shoe Corporation, which was organized under the laws of Ohio in 1931. Claimant filed this claim on October 3, 1966.

The United States Shoe Corporation has stated that it cannot certify that 50% of its outstanding capital stock was owned by nationals of the United States between June 8, 1966, the date of its acquisition of claimant, and October 3, 1966, the date the claim was filed.

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From the foregoing it is clear that the evidence of record fails to establish that this claim was owned by a national or nationals of the United States at the time it arose and continuously thereafter until the date of filing with the Commission. Claimant has failed to sustain the burden of proof. Accordingly, the Commission is constrained to deny this claim.

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

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

DEC 10 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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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