

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

IN THE MATTER OF THE CLAIM OF

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK, AS TRUSTEE

Claim No. CU -1594

Decision No. CU -134

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Davis, Polk, Wardwell,
Sunderland & Kiendl

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 MORGAN GUARANTY TRUST COMPANY OF NEW YORK, AS TRUSTEE, for \$4,957,740.00, based upon the failure of the Cuba Railroad Company to meet its obligations with respect to certain bonds which were a charge upon property of the Cuba Railroad Company assertedly nationalized by the Government of Cuba.

The claimant submitted a list of 36 names of persons who might be holders of the bonds. All of such persons having filed claims on their own behalf with respect to the bonds, 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 Cuba Railroad Company to meet its obligations under the bonds.

Claimant has objected to the Proposed Decision, stating that in addition to supplying information relevant to the claims of individual bondholders, its intention was to protect the rights of all bondholders, and there may be others in addition to the 36 they were able to name.

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 Cuba Railroad Company, it does not itself claim herein 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. Its losses in the nature of unpaid fees for services as trustee are the subject of a separate claim numbered CU-1593. Accordingly, the Commission's disposition of the instant claim can only be a denial thereof.

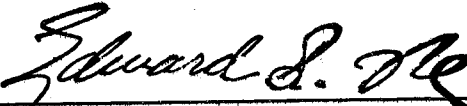
However, claimant's timely filing of a claim will protect the rights of holders of the bonds here involved, to the extent that any such holders who have filed or who may file claims based upon such bonds will have their claims considered by the Commission as timely filed, provided filing

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.

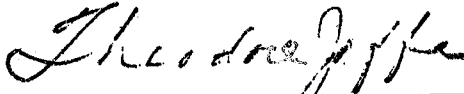
Accordingly, the Proposed Decision of August 23, 1967, is affirmed, and this claim is denied.

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

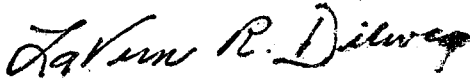
OCT 25 1967



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 MORGAN GUARANTY TRUST COMPANY OF NEW YORK, AS TRUSTEE, for \$4,957,740.00, based upon the failure of the Cuba Railroad Company to meet its obligations with respect to certain bonds because of the nationalization of said enterprise by the Government of Cuba.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988), 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

(a) . . . 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 claimant in its letter to the Commission dated April 17, 1967, among other things, states:

"As Trustee Morgan Guaranty Trust Company of New York has no means available to it to ascertain the identity of the holders of these first mortgage Bonds of The Cuba Railroad Company. However, Morgan Guaranty Trust Company of New York has attempted to bring to the attention of such persons who might be holders of this issue of Cuba Railroad Company Bonds and eligible claimants under the International Claims Settlement Act of 1949 that a deadline of May 1, 1967 has been established for them to file claims for losses arising from Cuban expropriations. In order to supply the Commission with relevant information about these Bonds and the expropriation of the Company and to preserve the rights of all eligible bondholders to submit proofs of their individual claims, Morgan Guaranty Trust Company of New York is [filing this claim] as Trustee, relating to the aggregate principal of these outstanding Bonds."

Included with the above letter, claimant submitted the names of 36 persons who might be holders of the aforementioned bonds. A search of Commission records discloses that all 36 persons have filed individual claims on their own behalf with respect to the bonds.

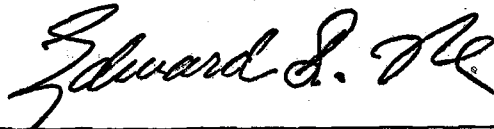
It not appearing that claimant is authorized to pursue further these claims on behalf of the bondholders concerned, this claim is

denied on the ground that as between claimant herein and the individual bondholders, the latter are the proper parties claimant as to the asserted losses involved.

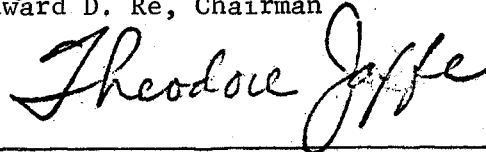
The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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 upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)