

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

IN THE MATTER OF THE CLAIM OF

EASTERN AIR LINES, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2009

Decision No. CU-0708

Counsel for claimant:

Gambrell, Harlan, Russell & Moye
Lawrence D. McGovern, Esq. of
Counsel

Appeal and objections from a Proposed Decision entered on November 22, 1967.
No hearing requested.

Hearing on the record held on August 4, 1971

FINAL DECISION

Under date of November 22, 1967, the Commission issued its Proposed Decision on this claim which had been asserted for loss as the owner of successor in interest to Mackey Airlines, Inc.'s ownership of personal property described as furniture and fixtures; also for two bank accounts; a deposit for advance rental payments with the Havana Hilton Hotel, Havana, Cuba; and one share of stock of Cuba Aeronautical Radio, totalling \$2,153.58.

The Proposed Decision denied the claim in its entirety since the Burden of Proof had not been met in establishing claimant's United States nationality, its ownership of any properties, taken by the Government of Cuba and value.

Subsequent to the issuance of the Proposed Decision counsel submitted evidence relating only to those parts of the claim based on the rental deposit and the said share of stock. Counsel stated that no additional documentation was available. No further evidence of any nature has been submitted.

Based on the entire record the Commission finds as to the part of the claim based on the rental deposit in the amount of \$110.00 that it appears under agreement dated February 14, 1958 claimant, as sublessee may have paid said amount to the Hilton Hotels of Cuba, S.A. However, there is no specific or direct evidence that said amount remained on deposit and was taken by the Government of Cuba on or after January 1, 1959.

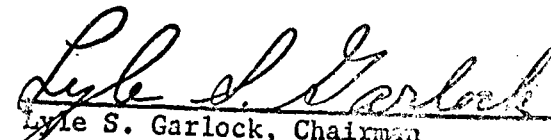
As to the part of the claim based on one share of stock the Commission finds that the evidence submitted in support thereof is not relevant to the issues of ownership, a taking by the Government of Cuba and the value at the time of loss.

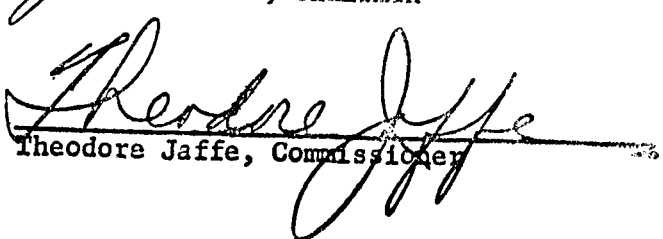
Further, no provative evidence has been submitted to establish those parts of the claim based on bank accounts, and furniture and fixtures.

For all of the foregoing reasons, the denial of this claim in its entirety is affirmed.

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

AUG 11 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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

IN THE MATTER OF THE CLAIM OF

EASTERN AIR LINES, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2009

Decision No. CU - 708

Counsel for claimant:

Gambrell, Harlan, Russell & Moye
Lawrence D. McGovern, Esq. of
Counsel

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$2,153.58, was presented by EASTERN AIR LINES, INC., and is based upon the asserted loss of two bank accounts; a deposit for advance rental payments with the Havana Hilton Hotel, Havana, Cuba; personal property described as furniture and fixtures; and an unspecified number of securities of Cuba Aeronautical Radio.

Claimant asserts that it is a national of the United States within the meaning of Section 502(1)(B) of the Act.

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).)

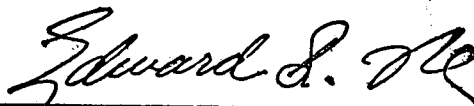
Claimant asserts the ownership and loss of bank accounts, advance rental payments, personal property and securities of a Cuban entity, but submitted no documentary evidence in support of its claim, filed on May 1, 1967. Accordingly, by Commission letter of July 5, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. No evidence in response to this correspondence has been received.

On September 15, 1967, counsel was invited to submit any evidence available to them within 45 days from that date, and they were informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

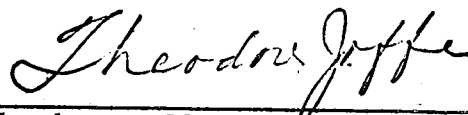
The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary 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

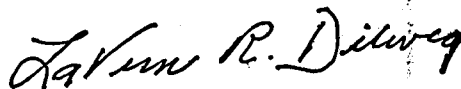
22 NOV 1967



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).)

CU-2009