

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

IN THE MATTER OF THE CLAIM OF

THE CUBA RAILROAD COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3683

Decision No. CU 1277

Counsel for claimant:

Wikler, Gottlieb, Taylor
and Stewart

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, by THE CUBA RAILROAD COMPANY was timely filed by Carl Marks and Company, Inc., on behalf of THE CUBA RAILROAD COMPANY for it and its stockholders and bondholders, and is based upon the loss of the assets of THE CUBA RAILROAD COMPANY, said to have been taken 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. 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 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.

Section 502(1) of the Act defines the term "national of the United States" as "(B) 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 CUBA RAILROAD COMPANY, incorporated in the State of New Jersey, was wholly owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation. Inasmuch as more than 50% of the capital stock of claimant corporation was not owned, directly or indirectly, by natural persons who are citizens of the United States, the Commission finds that claimant is not a national of the United States as defined by Section 502(1)(B) of the Act, and the claim is accordingly denied. Moreover, it not appearing that THE CUBA RAILROAD COMPANY is authorized to further pursue a claim on behalf of the bondholders, the claim could only be denied as, between the claimant, and the bondholders, the latter are the proper parties claimant.

The timely filing of this claim will protect the rights of holders of bonds issued by THE CUBA RAILROAD COMPANY 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 not later than March 1, 1970, to permit orderly disposition thereof before the termination of the claims program on May 1, 1970.

The individual claim of Carl Marks Co., Inc., FCSC Claim No. CU-2545, will be considered by the Commission in due course.

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

FEB 14 1968

Edward E. Re

Edward E. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision of the Commission which was entered as the final decision on MAR 18 1968

Travis Mackerson
Clerk of the Commission

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).)