

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

IN THE MATTER OF THE CLAIM OF

ESTEBAN F. JUNCADELLA
YOLANDA X. JUNCADELLA
LOURDES Y. JUNCADELLA
MIGUEL M. JUNCADELLA
ESTEBAN M. JUNCADELLA

CU-5024
CU-5025
Claim No. CU-5026
CU-5027
CU-5028
Decision No. CU-488

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered October 18, 1967.
No oral hearing requested; Hearing on the record.

Hearing on the record held on December 14, 1967.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on October 18, 1967, denying it for the reasons that claimants had failed to establish that the property upon which this claim was based was owned by a national or nationals of the United States at the time of loss as is required under Section 504(a) of the Act.

Claimants objected to the Proposed Decision asserting that the First National City Bank of New York, a corporation organized under the laws of the United States, originally filed a claim on behalf of stock and bondholders of Cuba Northern Railways Company, such as claimants, in order to protect the interest of those bondholders who were nationals at the time of loss. Claimants contend that their claims should be favorably considered through the Bank's United States nationality, even though claimants themselves are not yet citizens of the United States. Claimants have not submitted any evidence in support of their contentions.

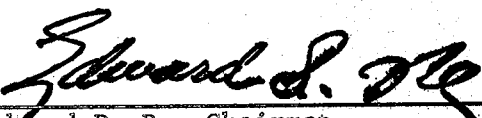
After giving full consideration to the objections of claimants, and the entire record, including claimants' objections, having been reviewed, the Commission concludes that while the Bank's action was one of protecting the interests of those bondholders who were nationals of the United States at the time of loss, still, the Bank is not the proper party claimant for the losses incurred by individual bondholders; that the Bank's United States nationality is not determinative of the nationality of the individual claimants; and that the claimants themselves must establish that they were citizens of the United States at the time of loss. This they have not done.

General notice of the Proposed Decision having been given by posting for 30 days, it is

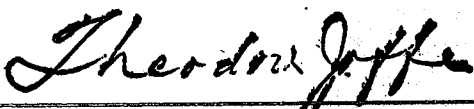
ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

20 DEC 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

CU-5024
CU-5025
CU-5026
CU-5027
CU-5028

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

IN THE MATTER OF THE CLAIM OF

YOLANDA X. JUNCADELLA
ESTEBAN F. JUNCADELLA, individually
ESTEBAN F. JUNCADELLA, as parent
and natural guardian of the minors
LOURDES Y. JUNCADELLA
MIGUEL M. JUNCADELLA
ESTEBAN M. JUNCADELLA

Under the International Claims Settlement
Act of 1949, as amended

5024
5025
Claim No. CU 5026
5027
5028
Decision No. CU

488

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by YOLANDA X. JUNCADELLA, ESTEBAN F. JUNCADELLA, LOURDES Y. JUNCADELLA, MIGUEL M. JUNCADELLA AND ESTEBAN M. JUNCADELLA in the total amount of \$67,945.00, and are based upon the asserted loss of certain stock interests in the Cuban Northern Railways Company.

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)]⁷, 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 national 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part of a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

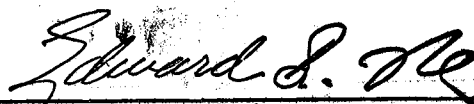
In their claim forms, filed on September 26, 1967, claimants assert in reply to the question of their United States citizenship, that they have "not yet" been naturalized as United States citizens. They further state that each of their claims arose in "1960".

On the basis of the existing record, the Commission finds that claimants have failed to establish that the property, subject to this claim, was owned by nationals of the United States on the date of loss, a requirement of Section 504(a) of the Act.

Accordingly, for the reasons stated above, the Commission concludes that these claims are not within the purview of Title V of the Act, supra. and they are denied. The Commission deems it unnecessary to make specific findings with respect to other elements of these claims.

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

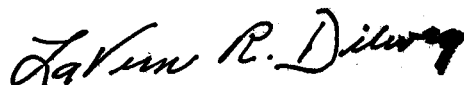
OCT 18 1967



Edward D. Re, Chairman



Theodore Jaffe, Commission



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).)

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