

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

IN THE MATTER OF THE CLAIM OF

HERBERT SCHOLZ, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0392

Decision No. CU-742

Appeal and objections from a Proposed Decision entered November 30, 1967.
No oral hearing requested.

Hearing on the record held February 14, 1968

FINAL 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 \$6,389.00, was presented by HERBERT SCHOLZ, JR. and is based upon the asserted loss of his interest in bonds of the Consolidated Railroads of Cuba. Under date of November 30, 1967, the Commission issued its Proposed Decision denying the claim for claimant's failure to meet his burden of proof.

Claimant objected to the Proposed Decision on the grounds that he did in fact own the alleged bonds, that they were purchased for him in 1953 by his broker, and that the bonds and receipts were in his possession.

By Commission letter of December 22, 1967, claimant was requested to furnish the bonds and the broker's receipts. Further, he was advised that if such evidence was not furnished within twenty days from the date thereof, the claim would be presented to the Commission for final determination. No response to this letter has been furnished to date.

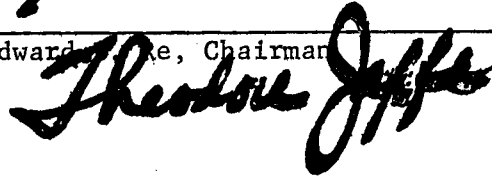
Accordingly, the Proposed Decision is hereby affirmed as the
Final Decision of the Commission.

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

FEB 28 1968



Edward R. Re, Chairman



Theodore Jaffe, Commissioner

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

IN THE MATTER OF THE CLAIM OF

HERBERT SCHOLZ, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0392

Decision No. CU

742

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 \$6,389.00, was presented by HERBERT SCHOLZ, JR. and is based upon the asserted loss of a stock interest in Consolidated Railroads of Cuba. Claimant has been a national of the United States since his birth in the United States.

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).)

Other than his own statements, claimant has submitted no evidence in support of this claim. By Commission letter of July 13, 1966, claimant was advised, as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of November 17, 1966, the Commission made additional suggestions to claimant concerning the submission of supporting evidence in this matter. However, no evidence in response to this correspondence has been received to date.

On August 18, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. On October 16, 1967, claimant was granted an additional 20 days to submit suggested evidence. No response was received to either of said letters.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby 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

30 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).)

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