

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

IN THE MATTER OF THE CLAIM OF

HENRY C. SCHNELL

Claim No. CU-1940

Decision No. CU-349

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Wood & Wood
By H. L. Wood, Esq.

Appeal and objections from a Proposed Decision entered on September 20, 1967.
No hearing requested.

Hearing on the record held on September 8, 1971.

FINAL DECISION

Under date of September 20, 1967, the Commission issued its Proposed Decision denying this claim for lack of proof. It was also concluded that claimant had failed to establish his United States nationality.


Subsequently, claimant filed evidence in support of his claim, including proof that he has been a United States national since birth. The evidence indicates that by agreements and assignments early in 1960 claimant acquired interests in certain mining concessions and other personal property in Cuba. Two of the documents, both dated May 2, 1960, involved claimant and Herbert Steinfeld. Pursuant to one agreement the two parties deposited \$5,000.00 each for the purpose of operating the Angelina Mine at Santiago de Cuba, Cuba. The other document was an assignment to claimant of a mining concession with respect to La Candela Mine, Oriente Province, Cuba.

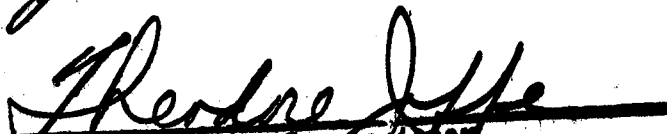
Other transactions occurred between claimant and Anthony Forte. As of January 12, 1960 and March 7, 1960, both parties agreed to form the Cuban corporation, Coastal Mining Company, S.A. in which each was to own a 50% interest. The other agreement of May 9, 1960 effected a transfer from Mr. Forte to claimant of a 1/2 interest in certain mining equipment in Cuba. It is noted in this connection that Anthony Forte filed a claim for the loss of mining interests and other properties in Cuba (Claim No. CU-5093). In that claim, Mr. Forte stated that his properties in Cuba, valued by him at \$5,385,000.00, had been taken by the Government of Cuba on February 7, 1959, long before the said transactions in which he and claimant were involved.

Upon consideration of the entire record, the Commission finds no valid basis for altering the decision previously entered. The evidence does not establish that claimant owned any stock interests in Cuban corporations, or if he did, that his interests had any value on the asserted date of loss. The evidence does not establish that claimant owned interests in mining concessions and other personal property in Cuba, or if he did, that his interests had any value on the asserted date of loss. Accordingly, the Proposed Decision is affirmed in all respects.

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

SEP 8 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, 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, in the amount of \$90,132.83, was presented by HENRY C. SCHNELL based upon the asserted loss of personal property, including stock interests in Cuban corporations. Claimant states that he has been a national of the United States since his birth in the State of Iowa in 1886.

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 of 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 in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership of certain stock interests in Cuban corporations and other personal property; however, claimant has submitted no documentary evidence in support of his claim. By Commission letter of June 5, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish his claim under the Act.

On July 19, 1967, counsel were invited to submit any evidence they might have 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 present record. Counsel have not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof, in that he 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 hereby denied.

CU-1940

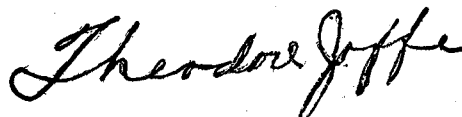
The Commission deems it unnecessary to determine other elements of this claim.

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

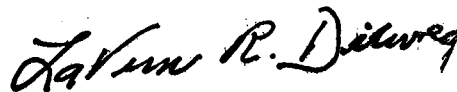
SEP 20 1967



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-1940