

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

IN THE MATTER OF THE CLAIM OF

FIRST NATIONAL CITY BANK

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2627

Decision No. CU - 6064

Counsel for claimant:

Shearman & Sterling

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, for an unstated amount, was presented by FIRST NATIONAL CITY BANK on behalf of, or for the benefit of, certain persons for whom the Bank has acted or is acting as custodian or trustee or in some other fiduciary capacity.

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.

Claimant submitted a list of individuals for whom it acted in a fiduciary capacity, as trustee holding securities for the benefit of particular named parties. Claimant has not been the beneficial owner of the securities upon which the claim is based but was the holder of the bare title to the securities, no benefits accruing therefrom. Letters were sent by the Commission to the separate parties for whom claimant acted advising them of the Cuban Claims Program and enclosing claim forms with instructions for filing claims. Many of these beneficiaries thereupon filed their separate claim for consideration by the Commission.

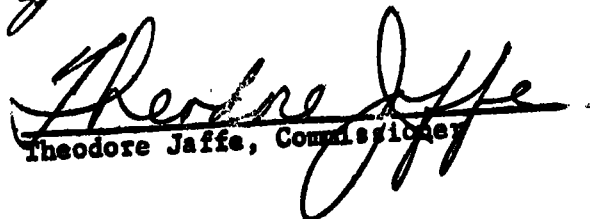
For those who have not filed claims, claimant herein has not submitted proof of their United States nationality or evidence concerning the ownership of the security involved. Under the provisions of Section 504(a) of the Act, the property or claim arising from its loss must have been held by one or more nationals of the United States continuously from the date of loss to the date of filing claim with the Commission. Moreover, the Commission has consistently held that the test of United States nationality must be applied to the beneficial owner of a claim and not to the nominal or mere legal title holder. (See Claim of The Florida National Bank and Trust Company at Miami, as Administer c.t.a. of the Estate of Francisco Hidalgo Gato, Deceased, Claim No. CU-0587.)

Accordingly, the Commission finds that claimant has not met the burden of proof in that it has failed to establish the United States nationality of the claim, or the parties for whom claim is made, from the date claim arose to the date of filing with the Commission. Thus the Commission is constrained to deny this claim and it is hereby denied.

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

FEB 11 1971


Lyle S. Gartock, Chairman


Theodore Jaffe, 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 (1970).)