

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

IN THE MATTER OF THE CLAIM OF

BENJAMIN D. SCHULMAN
and
RUBY G. SCHULMAN

Claim No. CU - 3747

Decision No. CU-714

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

By Proposed Decision of November 22, 1967, the Commission denied this claim on the ground that claimants had failed to establish their ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Claimants have submitted additional evidence, and the matter having been considered, it is

ORDERED that the Proposed Decision be and it is hereby amended.

The Commission now finds that BENJAMIN D. SCHULMAN owned 50 shares of preferred stock of the Cuba Railroad Company; two 3% Income Debentures of the Consolidated Railroads of Cuba in the total face amount of \$10,000; and Accrual Certificates of the Consolidated Railroads of Cuba in the face amount of \$52,200.

Additionally the Commission finds that BENJAMIN D. SCHULMAN and RUBY G. SCHULMAN jointly owned ten 3% Income Debentures of the Consolidated Railroad in the total face amount of \$10,000; and Accrual Certificates of said Railroad in the face amount of \$8,700.

In our decisions entitled the Claim of Irwin Nack, et al. (CU-1960), Claim of Edward R. Smith (CU-5001) and Claim of Meyer Lobsenz (CU-1005), which we incorporate herein by reference, we held that the properties of these Railroads were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that these types of claims are compensable to an American national under the facts and conditions set forth therein.

We need not again detail here the reasons or the method used in determining the value per preferred share of Cuba Railroad as \$100 per share; the value per \$5,000 3% Income Debenture of Consolidated Railroads as \$5,945.41 including interest to October 13, 1960; and the value of Accrual Certificates of said Railroad as the face value thereof.

On the basis of evidence in the record in the instant case, the Commission finds that these claimants come within the terms of the aforesaid decisions; that they were American nationals at the requisite times; that they have been the owners of the above described securities since prior to October 13, 1960; that BENJAMIN D. SCHULMAN suffered a loss in the amount of \$68,090.82, and BENJAMIN D. SCHULMAN and RUBY G. SCHULMAN jointly suffered a loss in the amount of \$20,590.82 within the meaning of Title V of the Act. Further, the Commission finds that the amount of losses sustained shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for the settlement thereof. (See Smith, Nack and Lobsenz, supra.)

It is noted that the amount claimed by BENJAMIN D. SCHULMAN and RUBY G. SCHULMAN was \$19,520.00, the asserted cost of the securities, which is a lesser sum than that granted herein. In determining the amount of loss sustained, however, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

Accordingly the following Certifications of Loss will be entered and in all other respects the Proposed Decision is affirmed.

CU-3747

CERTIFICATIONS OF LOSS

The Commission certifies that BENJAMIN D. SCHULMAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Sixty-eight Thousand Ninety Dollars and Eighty-two Cents (\$68,090.82) with interest at 6% per annum from October 13, 1968 to the date of settlement; and

the Commission certifies that BENJAMIN D. SCHULMAN and RUBY G. SCHULMAN jointly suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty Thousand Five Hundred Ninety Dollars and Eighty-two Cents (\$20,590.82) with interest at 6% per annum from October 13, 1968 to the date of settlement.

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

FEB 26 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities for the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended 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).)

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

IN THE MATTER OF THE CLAIM OF

BENJAMIN D. SCHULMAN
RUBY G. SCHULMAN

Claim No. CU -3747

Decision No. CU 714

Under the International Claims Settlement
Act of 1949, as amended

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 \$19,520.00, was presented by BENJAMIN D. SCHULMAN and RUBY G. SCHULMAN and is based upon an asserted loss in connection with stock issued by the Cuba Railroad Company, and bonds issued by Consolidated Railroads 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 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).)

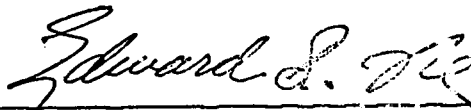
Claimants assert ownership of 50 shares of stock in the Cuba Railroad Company, and bonds having a face value of \$60,900.00 issued by the Consolidated Railroads of Cuba. No evidence or information has been submitted in support of the claim since the original filing on June 6, 1967.

By Commission letter of August 22, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of September 27, 1967, claimants were invited to submit any evidence available to them 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 existing record. No evidence has since been submitted.

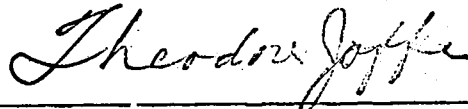
The Commission finds that the claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it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

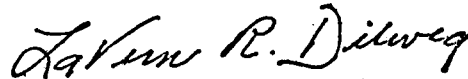
22 NOV 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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