

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

IN THE MATTER OF THE CLAIM OF

DE WARREN B. BARNETT, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2241

Decision No. CU -654

20th Amended P.D. for Order

AMENDED PROPOSED DECISION

By Proposed Decision dated November 15, 1967, the Commission denied this claim for failure of proof. Thereafter claimant submitted additional evidence. Upon consideration of this matter, it is

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

In our decision entitled the Claim of Irwin Nack, et al. (Claim No. CU-1960 which we incorporate herein by reference), we held that the properties owned by The Cuba Railroad Company were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is 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 \$100.00.

On the basis of the evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Nack decision; that he was an American national at the requisite times; that he has been the owner of 110 shares of preferred stock in The Cuba Railroad Company since prior to October 13, 1960; and that he suffered a loss in the amount of \$11,000.00 within the meaning of Title V of the Act.

Claim has also been made for an additional 100 shares of Cuba preferred stock. The record reflects that one Irene B. Barnett had title to 100 shares. However, Irene B. Barnett, if a national of the United States, has not been joined in the claim nor has claimant shown his acquisition of these 100 shares. Accordingly, no certification is made with respect thereto.

The Commission also finds that the amount of loss 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 Nack, supra.)

Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that DE WARREN B. BARNETT, JR. 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 Eleven Thousand Dollars (\$11,000.00) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

DEC 18 1968

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 claimant establishes 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

DE WARREN B. BARNETT, JR.
and
IRENE R. BARNETT

Claim No. CU - 2241

Decision No. CU - 654

Under the International Claims Settlement
Act of 1949, as amended

SECOND AMENDED PROPOSED DECISION

By Proposed Decision dated November 15, 1967, the Commission denied this claim for failure of proof. Thereafter claimant, DE WARREN B. BARNETT, JR., submitted additional evidence. An Amended Proposed Decision issued certifying his loss in the amount of \$11,000 based on 110 shares of Cuba Railroad preferred stock.

IRENE R. BARNETT, a national of the United States since birth, having petitioned to join in this claim, is added as a claimant herein.

On the basis of the evidence in the record in the instant case, the Commission finds that claimant IRENE R. BARNETT comes within the terms of the Nack decision; that she was an American national at the requisite times; that she has been the owner of 100 shares of preferred stock in The Cuba Railroad Company since prior to October 13, 1960; and that she suffered a loss in the amount of \$10,000 within the meaning of Title V of the Act.

The Commission also finds that the amount of loss 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 Nack, supra.)

Accordingly, the following additional certification of loss will be entered and in all other respects the Proposed Decision and Amended Proposed Decision are affirmed.


CERTIFICATION OF LOSS

The Commission certifies that IRENE R. BARNETT 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 Ten Thousand Dollars (10,000.00) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

NOV 10 1978


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


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 claimant establishes retention of the securities or 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 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

DE WARREN B. BARNETT, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2241

Decision No. CU 654

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 \$4,014.08, was presented by DE WARREN B. BARNETT, JR., and is based upon the asserted ownership of 210 shares of preferred stock in the Cuba Railroad Company. Claimant states that he 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).)

This claim is based upon claimant's asserted ownership of 210 shares of preferred stock in the Cuba Railroad Company. However, except for photocopies of broker's statements of account, claimant has submitted no documentary evidence to establish his claim.

By Commission letter of June 12, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act.

On July 21, 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.

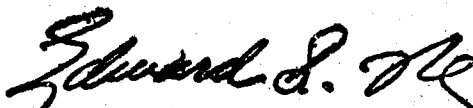
By letters of September 18, 1967 and October 4, 1967, the Commission made additional suggestions to claimant concerning the submission of supporting evidence in this matter.

However, except as mentioned hereinabove, the suggested evidence has not been submitted.

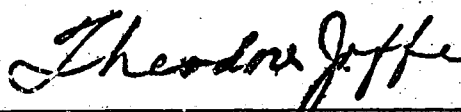
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership by a national of the United States of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained 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

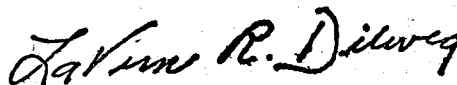
NOV 15 1967



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-2241