

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

IN THE MATTER OF THE CLAIM OF

RUSTON BAKER FOUNDATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0974

Decision No. CU-4837

Counsel for claimant:

Rufus King, Esquire

Appeal and objections from a Proposed Decision entered on May 6, 1970;
oral hearing requested.

Oral hearing held on June 19, 1970.

FINAL DECISION

The Commission issued its Proposed Decision in this matter on May 6, 1970, holding that the claimant, RUSTON BAKER FOUNDATION, established in 1951 as a Cuban organization, failed to qualify as a national of the United States under Section 502(1)(B) of the Act, and denying the claim accordingly.

Claimant, through counsel, filed objections to the Proposed Decision, objecting specifically to the holding that it was not within the contemplation of Section 502(1)(B) of the Act. At an oral hearing held on June 19, 1970, testimony of a witness was given and argument was presented by counsel concerning the nature and objectives of the claimant.

Full consideration having been given to the objections of claimant, and the entire record having been reviewed, the Commission finds that although the directors of the Foundation may have been empowered to remove title to property from the Foundation, they did not do so prior to taking of the school by the Cuban Government, and they cannot be found to have been


holding title to property as Trustees for any American beneficiaries.

Accordingly, it is hereby


ORDERED that the Proposed Decision of May 6, 1970, be and it is hereby affirmed.

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

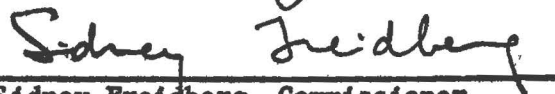
JUN 30 1970



Lyle S. Garlock, Chairman



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

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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 \$935,965.00 was presented by the RUSTON BAKER FOUNDATION, and is based on land, building and personal property used in the operation of Ruston Academy.

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 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The Commission has held that a corporation organized in New York as a charitable corporation whose operations were to be conducted principally in the United States qualified as a national of the United States within the meaning of Section 502(1)(B) of the Act. (See Claim of Kleiger Foundation, Inc., Claim No. CU-5005.)

In this case, however, it is stated by James D. Baker, Director of the Academy, that the Foundation was established in 1951, as a Cuban organization, to facilitate relations with the Cuban Ministry of Education, and having the purposes of strengthening, improving and giving permanence to Ruston Academy, described as an American school founded in 1920 by Hiram Ruston, described as a North American.

The Foundation was started, it is said, with assets of about \$150,000.00 given to it by James D. Baker and Sibyl E. Baker.

Most of this was used for the purchase, by the Foundation, of land on which a school was built. This building was constructed through gifts and a loan. It is said that approximately 85% of the contributions of \$237,738.00 came from North American individuals and companies.

Mr. Baker contends that the Foundation was always considered a North American institution by the United States Government and thus received contributions from the International Schools Service.

Further, it is said that the Foundation was owned and operated by a self-perpetuating Board of Directors. The named directors are 10, five of whom are United States citizens.


Even if the term "North American" as used by Mr. Baker can be fairly construed to refer only to nationals of the United States, the result would be only that organizers and contributors to the Foundation may have been natural persons, citizens of the United States. Nevertheless, if a claimant entity is to qualify, it must be shown to have been organized under the laws of the United States, or a State or the District of Columbia, or the Commonwealth of Puerto Rico, in addition to natural United States citizens owning, directly or indirectly 50 per cent of the beneficial interest of the entity.

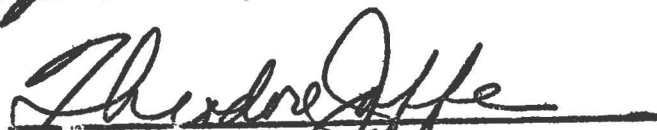
In the instant case not only is the Foundation a Cuban entity, organized as a charitable corporation, but any ownership vested in the Board of Directors is necessarily fiduciary in nature and does not impute a beneficial ownership in the directors.

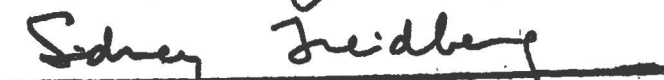
For the reasons stated above the Commission holds that this claim is not within the scope of Title V of the Act. Thus, the Commission is constrained to deny the claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

MAY 6 1970


Lyde S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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-0974