

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

IN THE MATTER OF THE CLAIM OF

ROBERT W. FROEHLICH

IVA W. FROEHLICH

Claim No. CU-0591

Decision No. CU
3510

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

Claimants, ROBERT W. FROEHLICH and IVA W. FROEHLICH, who owned a participation interest, as joint tenants, in the Cuban Venezuelan Oil Voting Trust, and a stock interest in the Trans-Cuba Oil Company, assert a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Trust.

In our decisions entitled the Claim of Felix Heyman (Claim No. CU-0412) and the Claim of D. R. Wimberly (Claim No. CU-3417) which we incorporate herein by reference, we held that the properties owned or controlled by the Trust and the Company were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, 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 for each unit of the Trust as being \$0.11971, and the value for each share of Trans-Cuba Oil as being \$0.1198.

On the basis of evidence in the record in the instant case, the Commission finds that these claimants come within the terms of the Heyman and Wimberly decisions; that they were American nationals at the requisite times; that they have been the joint owners of 3,500 units of participation in the Cuban Venezuelan Oil Voting Trust and 2,800 shares of Trans-Cuba since prior to November 23, 1959; and that with respect to the Trust they suffered a loss in the amount of \$418.99 and with respect to 2,800 shares of Trans-Cuba they suffered a loss of \$335.44, within the meaning of Title V of the Act

The record also reflects that claimants jointly owned 12,700 shares of Trans-Cuba Oil Company stock which they acquired after November 23, 1959, the date of taking by the Government of Cuba, for a total consideration of \$2,373.90.

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.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on November 23, 1959. In similar cases claimants have been unable to obtain information or evidence to establish the nationality of the owner or owners of the securities on the date of loss, and to establish continuous United States ownership of the securities until the dates on which claimants acquired the shares of stock.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the dates on which purchased by the claimants, and, in the absence of evidence to the contrary, has concluded

that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

The Commission finds that claimants herein, as assignees by purchase, acquired the claim for the losses sustained by the assignors of the claimed securities. The Commission also finds, however, that the loss of the claimants is limited to the sum of \$1,521.46, or \$0.1198 per share, which is the value of each share of stock at the time that the Trans-Cuba Oil Company was taken by the Government of Cuba.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644.)

The Commission concludes, however, that the amount of loss sustained by claimants herein, with respect to the 12,700 shares of Trans-Cuba Oil Company stock acquired after November 23, 1959, shall be increased by interest thereon at the rate of 6% per annum from the respective dates on which the claimants acquired their claims for such loss, as shown below, to the date on which provisions are made for the settlement thereof.

The evidence of record, including the aforesaid transaction slips and other data submitted by claimants, discloses that the 12,700 shares of stock, representing claims for loss thereof, were acquired on the following dates, and, at \$0.1198 per share, the value of such rights is also shown:

<u>Dates that claims for loss were acquired</u>	<u>Number of shares acquired by claimants</u>	<u>Value, at \$0.1198 per share of stock</u>
February 17, 1960	300	\$ 35.94
April 10, 1961	2,000	239.60
October 23, 1961	400	47.92
October 24, 1961	4,600	551.08
October 26, 1961	1,000	119.80
October 27, 1961	100	11.98
October 30, 1961	500	59.90
October 31, 1961	2,500	299.50
November 1, 1961	900	107.82
June 25, 1962	400	47.92
T O T A L S . . .	12,700	\$1,521.46

CERTIFICATION OF LOSS

The Commission certifies that ROBERT W. FROEHLICH and IVA W. FROEHLICH 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 Two Thousand Two Hundred Seventy-five Dollars and Eighty-nine Cents (\$2,275.89) with interest at 6% per annum from the respective dates of loss or acquisition of the claims for loss to the date of settlement.

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

FEB 12 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 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).)