

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

IN THE MATTER OF THE CLAIM OF

ROLAND E. HINES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0717

Decision No. CU 3768

PROPOSED DECISION

Claimant, ROLAND E. HINES, who owned a participation interest in the Cuban Venezuelan Oil Voting Trust, asserts 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 decision entitled the Claim of Felix Heyman (Claim No. CU-0412 which we incorporate herein by reference), we held that the properties owned or controlled by the Trust 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 per unit of \$0.11971.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Heyman decision and that he was an American national at the requisite times.

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.

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).)

Claim has been asserted for loss based on 2,000 units of participation in the Cuban Venezuelan Oil Voting Trust. Claimant has submitted two certificates of the Cuban Venezuelan Oil Voting Trust issued in 1965, including NY 129362 and NY 129396, showing that he was the owner of 1,500 units of participation in the aforesaid Trust. Further, claimant submitted a Statement of Account dated December 31, 1965, issued by his broker, showing that as of that accounting period said broker held 500 units of participation of the aforesaid Trust in the account of claimant.

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 of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

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 claimant, as an assignee by purchase, acquired the claim for the loss sustained by the assignor of the claimed securities, but under the limitations provided in Section 507 of the Act (supra), is limited to the amount of the actual consideration paid for the participation units.

The Commission has decided that in certification 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 has concluded, however, that the amount of loss sustained by a claimant as herein should be increased by interest thereon at the rate of 6% per annum from the dates on which claimant acquired the claim, to the date on which provisions are made for the settlement thereof.

By Commission letter of August 21, 1968, suggestions were made to claimant that he submit evidence as to the exact date or dates of purchase of the units of participation and the prices paid for those units included in his claim. (See Section 507, supra.) Thereafter, by Commission correspondence dated October 7, 1968, and December 5, 1968, additional suggestions were made to claimant indicating therein the type of evidence which would further clarify and support his claim. In each of these letters claimant was given a 30-day extension of time to compile and forward such supporting material. However, no evidence in response to the suggestions of the Commission has been received to date.

The Commission is constrained to find that claimant herein has not met the burden of proof in establishing a claim against the Government of Cuba within the scope of Title V of the Act. Accordingly, the claim is 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

JUL 23 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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).)