

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

IN THE MATTER OF THE CLAIM OF

MARGARET SUTCH

Claim No. CU -884

Decision No. CU 1523

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 \$1,517.50, was presented by MARGARET SUTCH, and is based upon the asserted loss of a stock interest in a Cuban enterprise. Claimant states that she has been a national of the United States since her birth.

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).)

Claimant asserts that she was the owner of 100 shares of stock in the Vertientes Camaguey Sugar Company of Cuba; that she sold the subject shares in 1963 at a net loss of \$1,448.04; and makes claim for the original purchase price of \$1,517.50. Claimant has submitted no documentary evidence in support of her claim; however, other factors are dispositive of this matter.

According to claimant's own statements, she transferred her stock interests subsequent to the date of loss, and prior to filing claim with the Commission. However, she now makes claim for the loss of her stock interest. The question thus presented is whether claimant retained any interest in a claim for such a loss after the 1963 sale of her stock.

Ownership of a stock interest in a foreign corporation vests, in the owner, two items of property: an interest in the net worth of the

corporation and an interest in any claim for nationalization. Upon a sale of that stock interest, and in the absence of any specific reservation, the seller transfers all rights incident to that stock. Claimant has neither alleged or proven that she retained any interest in a claim for the nationalization of corporate assets.

Therefore, while claimant may have had a claim for her interest in the nationalized company, she no longer owned a claim after the 1963 sale of her stock. The sole claim owned by her was for her interest in a corporation nationalized by the Government of Cuba; and she divested herself of any interest in a claim upon the sale of the stock. While claimant may have sustained a loss on the sale of her interest, it was not a loss on which the Commission, under the provisions of the Act, could render a favorable determination.

Since claimant has not established that she retained any interest in a claim for the nationalization of the company, this claim must be, and is, denied.

The Commission deems it unnecessary to determine other elements of this claim.

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

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

is is a true and correct copy of the decision of the Commission which was entered as the Proposed Decision on MAY 21 1968

Francis Hartman

Clerk of the Commission

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-0884