

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

IN THE MATTER OF THE CLAIM OF

THOMAS LOPRESTI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1310

Decision No. CU -674

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 total amount of \$1,906.74 was presented by THOMAS LOPRESTI and is based upon the asserted loss of stock interests in Cuban Venezuelan Oil Company and Trans Cuba Oil Company. Claimant has been a national of the United States since his 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 asserted the loss of his ownership interests in the aforementioned enterprises as a result of actions by the Government of Cuba.

By Commission letters of June 6, 1967 and September 7, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Specifically, it was suggested that he submit the stock certificates which represented his ownership interest in Cuban Venezuelan Oil Company and Trans Cuba Oil Company. The stock certificates were not submitted.

By Commission letter of September 25, 1967, claimant was informed that if the stock certificates were not received within 30 days from that date, it might become necessary to determine his claim on the basis of the existing record. Claimant, by letter received October 11, 1967, advised the Commission that he sold the shares of stock in both enterprises and was taking the tax loss.

Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owner two items of property, namely, an interest in the net worth of the corporation and an interest in any claim for the nationalization. The sale of the shares in the nationalized corporation may effect transfer of either or both interests, depending upon the intention of the parties to the transaction. The burden of proving the nature of the transaction rests with the claimant.

In the instant claim claimant has not alleged that he retained any interest in a claim for the nationalization of the corporation in question nor does the record establish that any such interest was retained. Therefore, in the absence of evidence to the contrary, the Commission concludes that when claimant sold his stock, he transferred all rights incident thereto.

Accordingly, and for the foregoing reasons, this claim is denied. The Commission deems it unnecessary to determine other elements of the claim.

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

NOV 15 1967

...
... and correct copy of the ...
... Commission shall be entered in the final
decision on ... 1968
JAN 4

Frank Mackerson
Clerk of the Commission

Edward D. Re
Edward D. Re, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

LaVern R. Dilweg
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).)