

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

IN THE MATTER OF THE CLAIM OF

WILLIAM RUDOWSKY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1443

Decision No. CU-036

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 \$850.00, was presented by WILLIAM RUDOWSKY and is based upon the asserted ownership and loss of stock interests in the Francisco Sugar Company, the Manati Sugar Company and the Vertientes-Camaguey Sugar Company, all of Cuba. 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 asserts the ownership of certain stock interests in the Francisco Sugar Company, the Manati Sugar Company and the Vertientes-Camaguey Sugar Company, however, claimant has submitted no original documentary evidence in support of his claim. By Commission letter of July 26, 1967, claimant was advised to submit the stock certificates involved in this claim with evidence of the date of purchase and price paid.

By letter dated August 9, 1967, claimant's broker indicated that the certificates were held in claimant's account since the purchase of the securities on October 7, 1960. Therefore, the Commission, by letter of September 18, 1967, advised claimant, inter alia, that since his stock was apparently acquired after the nationalization of the enterprises concerned he should submit evidence to establish that the shares were owned previously by a national of the United States and that

since his shares were held in "street name" he should have his broker complete an affidavit to that effect. However, no evidence in response to this correspondence has been received to date.

On November 17, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied.

Moreover, it is noted that a portion of the claim is based upon securities issued by the Manati Sugar Company and the Francisco Sugar Company. The Manati Sugar Company and the Francisco Sugar Company, according to information available to the Commission, are entities which qualify as nationals of the United States as defined in Section 502(1)(B) of Title V of the International Claims Settlement Act of 1949, as amended. Section 505(a) of the Act provides that a claim "based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered." Accordingly, a claim based upon ownership interests in these two companies may not be considered under Title V of the International Claims Settlement

Act of 1949, as amended, and the portion of the claim based upon such ownership interests must be denied for this additional reason.

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

JAN 10 1968

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

TO THE EFFECT THAT SERVICE OF THIS DECISION
BY REGISTERED MAIL HAS BEEN MADE AS SET FORTH
HEREIN.

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).)

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