

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

IN THE MATTER OF THE CLAIM OF

MAGDALENA MINING COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1460

Decision No. CU

1914

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 \$50,961.00, was presented by MAGDALENA MINING COMPANY, and is based upon the asserted loss of mining and certain rural properties in Oriente Province, Cuba.

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).)

An officer of claimant corporation has certified that the claimant was organized in the State of Delaware, and that at all times pertinent to this claim, all of the outstanding shares of capital stock in claimant were owned by Jones & Laughlin Steel Corporation. An officer of Jones & Laughlin Steel Corporation has certified that more than 98% of its outstanding capital stock was owned by persons who are residents of the United States.

Claimant herein submitted a 1945 Contract of Sale whereby the MAGDALENA MINING COMPANY purchased a mine, "Magdalena 2853", and two rural properties in Oriente Province, Cuba. Further, claimant submitted certain data shown in Schedule "M" of their income tax return filed with the Government of the United States in 1960. However, the claimant did not submit data in clarification of the property involved in the claim at the asserted date of loss or evidence showing continuous ownership of such properties purchased in 1945, loss thereof, or the value at time of loss. By

Commission letter of June 5, 1967, the claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. By letter of July 7, 1967, claimant responded to Commission letter of above date and submitted evidence concerning ownership of the stock of the MAGDALENA MINING COMPANY and Jones & Laughlin Steel Corporation; and furnished a legal description of the properties which were purchased in 1945.

By letter of December 12, 1967, the Commission made additional suggestions to claimant concerning the submission of evidence in support of this claim. However, no evidence in response to this correspondence has been received to date. On January 23, 1968, claimant was invited to submit any evidence available to it within 45 days from that date, and claimant 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 claimant has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Neither has claimant established the value of such property on the date of loss. Accordingly, this claim is hereby 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

MAY 22 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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).)

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