

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

IN THE MATTER OF THE CLAIM OF

GUANTANAMO SUGAR COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2683

Decision No. CU -

795

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by GUANTANAMO SUGAR COMPANY, in the amount of \$17,603,591.06, and is based upon the asserted ownership and loss of land, improved real property, and personal property of a business enterprise in 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 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 dates 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 502(1) of the Act defines the term "national of the United States" as "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

The claimant, GUANTANAMO SUGAR COMPANY, filed this claim with the Commission on May 1, 1967, indicating in correspondence and the claim application that it was organized in the State of New Jersey in 1905; and that its principal places of business were New York City and Havana, Cuba. Claimant also asserted that its principal assets included the Soledad, Isabel and Los Canos Mills, Guantanamo Railway Company maintained for company operations, Compania Agricola del Valle, S.A.C., with improvements on land, machinery and equipment, as well as extensive sugar crop acreage near the City of Guantanamo, Oriente, Cuba. However, no evidence has been submitted to establish that the claimant corporation qualifies as a "national of the United States", within the meaning of the Act.

On the contrary, the Secretary of the claimant organization, Faustino Leal, stated in an affidavit dated April 27, 1967, that ". . . it is believed that approximately 65% of the outstanding shares were owned at the time the claim arose by persons who were not United States nationals as defined in the Act . . ." Thus, the evidence of record discloses that the property upon which this claim is based was not owned at the time of the asserted loss by a corporation which qualifies as a national of the United States for the reason that 50 per centum or more of its outstanding capital stock was owned by natural persons who were not citizens of the United States.

Inasmuch as the claimant corporation, GUANTANAMO SUGAR COMPANY, has not established that more than 50 per centum of its outstanding capital stock was owned at the time of the asserted loss by citizens of the United States, the Commission concludes that the claim is not one of a national of the United States, as defined in Sections 502(1)(B) and 504 of the Act, and it is accordingly denied. (See the Claim of F. L. Smith & Co., Claim No. CU-0104.)

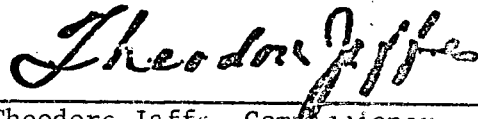
The Commission finds it unnecessary to make other determinations with respect to this claim. However, the evidence submitted, insofar as it relates to ownership, loss and value of the corporate assets, will be considered in connection with the individual claims of the stockholders of claimant organization which have been filed with this Commission.

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

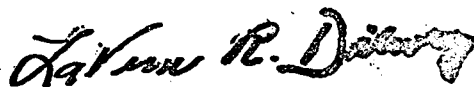
6 DEC 1967



Edward D. Re, Chairman



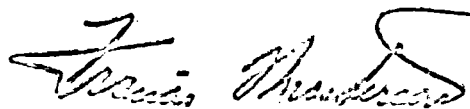
Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on _____ JAN 11 1968 _____



Gloria Henderson
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).)

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