

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

IN THE MATTER OF THE CLAIM OF

GREBE & DOREMUS PROCESS CO., INC.

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU -3151

Decision No. CU 3961

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 \$35,000.00, was presented by GREBE & DOREMUS PROCESS CO., INC. and is based upon the asserted loss of payment for services rendered.

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 502(1)(B) of the Act defines the term "national of the United States" as 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 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 stated that claimant, formerly a partnership, was organized in Texas and that at all times 100% of the outstanding capital stock has been owned by United States nationals.

It is asserted that claimant's predecessor, a partnership, performed engineering services for Cia. Refinadora de Petroleo Copetrol, S.A., for which it was not paid due to the asserted confiscation of the Cuban enterprise. It is said these services were in the field of engineering and economics in connection with the construction of a refinery at Nuevitas, Cuba. By Commission letter of July 5, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. No reply was received and a "follow-up" was sent on September 11, 1967.

By letter of September 20, 1967, claimant submitted evidence establishing the United States nationality of the two stockholders of claimant corporation and stated that it had certain records in their office specifically concerning their association with Copetrol, reports, document on capitalization of Copetrol and numerous documents reflecting

their status as consulting engineers. None of this has been submitted. Further, claimant stated that it was unable to submit evidence that the Government of Cuba took over the studies, data, and cost estimates claimant had prepared for the Cuban company, Compania Refinadora de Petroleo Copetrol, S.A.

Additional suggestions were made to claimant by letter of September 28, 1967. By letter of November 8, 1967, claimant submitted an affidavit by the former President of the Cuban company in which he stated that his company entered into a contract with claimant's predecessor in interest for \$170,265.00 and that there was owed to claimant \$35,000.00 for work actually performed prior to December, 1958, that all of the records of the Cuban company were taken over by the Cuban Government, and that he left Cuba about December 18, 1959.

Thereafter, by letter of March 28, 1968, the Commission made additional suggestions to claimant concerning the submission of specific supporting evidence in this matter which was requested within 30 days.

On May 22, 1968, 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 and a reminder was sent on October 18, 1968. No evidence has since been submitted.

The Commission has considered all evidence of record as well as that in a related claim based on a stock interest in Copetrol, but is constrained to hold that the record does not include substantive evidence of the asserted debt.

Accordingly, the Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership of rights and interests 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. 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

OCT 1 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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).)