

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

IN THE MATTER OF THE CLAIM OF

LOWELL E. MCCUTCHAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3197

Decision No. CU - 671

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$13,322.64, was presented by LOWELL E. MCCUTCHAN, and is based upon the asserted ownership and loss of stock interests. Claimant states that he is a national of the United States.

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.

Claimant has based his claim on 500 shares of Manati Sugar Company, 600 shares of Francisco Sugar Company, and 500 shares of Vertientes-Camaguey Sugar Company.

With respect to those portions of the claim based on ownership of Manati and Francisco stock, 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."

Documentation submitted to the Commission by the Manati Sugar Company reflects that Manati Sugar Company was incorporated under the laws of the State of New York. The President of Manati Sugar Company has informed the Commission that over 50 per centum of the capital stock of said corporation is owned by United States citizens, which would qualify it as a United States national within the purview of Section 502(1)(B) of the Act.

Documentation submitted to the Commission by the Francisco Sugar Company reflects that the Francisco Sugar Company was incorporated under the laws of the State of New Jersey. The Vice-President of the Francisco Sugar Company has informed the Commission that over 50 per centum of the capital stock of said corporation is owned by United States citizens which would qualify it as a United States national within the purview of Section 502(1)(B) of the Act.

Section 505(a) of the Act provides that

A claim under section 505(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered

The Commission concludes that since portions of this claim are based on stock interests in corporations which qualify as United States nationals, the Commission is precluded, under Section 505(a) of the Act from considering those portions of the claim based on the ownership of stock in the Manati Sugar Company and the Francisco Sugar Company. Accordingly, these portions of the claim are denied.

Claimant has notified the Commission that the Vertientes-Camaguey Sugar Company of Cuba is authorized to represent him before the Commission in any and all claims arising from the confiscation of that company's assets by the Cuban Government. Additionally, he states that he is in no way pursuing a claim independently of the claim in which Vertientes-Camaguey is representing its consenting United States national stockholders.

Accordingly, the remaining portion of this claim, based on the ownership of Vertientes-Camaguey stock, is denied without prejudice to the participation of LOWELL E. MCCUTCHAN in the claim filed by the Vertientes-Camaguey Sugar Company as agent for its consenting stockholders. (FCSC Claim No. CU-0624).

The evidence submitted by claimant in support of this portion of the denied claim will be considered by the Commission in Claim No. CU-0624.

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

NOV 15 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

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COMMUNICATIONS SECTION
U.S. DEPARTMENT OF COMMERCE
WASHINGTON, D.C. 20540

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).)