

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

IN THE MATTER OF THE CLAIM OF

ALEXANDER FABIAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3457

Decision No. CU - **3282**

PROPOSED DECISION

Claimant, Alexander Fabian, who owned a participation interest in the Cuban Venezuelan Oil Voting Trust, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Trust.

In our decision entitled the Claim of Felix Heyman (Claim No. CU-0412 which we incorporate herein by reference), we held that the properties owned or controlled by the Trust were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per unit of \$0.11971.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Heyman decision; that he was an American national at the requisite times; that he has been the owner of 1,000 units of participation in the Cuban Venezuelan Oil Voting Trust since prior to November 23, 1959; and that he suffered a loss in the amount of \$ 119.71 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from November 23, 1959, the date of loss, to the date on which provisions are made for the settlement thereof. (See Heyman, supra.)

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.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

Claim is also presented for an interest in participation units of the Trust purchased by claimant as follows:

300 on December 10, 1959 for \$59.25
700 on December 11, 1959 for \$138.25
300 on August 18, 1960 for \$49.88
700 on August 19, 1960 for \$116.38
1,000 on October 27, 1960 for \$65.00

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on November 23, 1959. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571)

The Commission finds that claimant, upon his purchase of the last listed 3,000 units succeeded to the loss sustained by the assignors thereof. However, in view of the provisions of the Act, the Commission concludes that with respect to the 1,000 units purchased on October 27, 1960 claimant suffered a loss of \$65.00, the price he paid, but with respect to the 2,000 units purchased between December 10, 1959 and August 18, 1960, claimant's loss may not exceed the value of the units computed at \$.11971.

The Commission has decided that in certification of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case, it is so ordered.

The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from November 23, 1959 as to 1,000 units and from the dates on which claimant acquired the claims as to 3,000 units, to the date on which provisions are made for the settlement thereof, as follows:

<u>From</u>	<u>On</u>
November 23, 1959	\$119.71
December 10, 1959	35.91
December 11, 1959	83.79
August 18, 1960	35.91
August 19, 1960	83.79
October 27, 1960	<u>65.00</u>
Total	\$424.11

CU-3457

CERTIFICATION OF LOSS

The Commission certifies that ALEXANDER FABIAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four hundred twenty-four dollars and eleven cents (\$ 424.11) with interest at 6% per annum from the aforesaid dates to the date of settlement.

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

NOV 6 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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].)