

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

IN THE MATTER OF THE CLAIM OF

BROADWAY BROKERS CORPORATION
OF PENNSYLVANIA

Claim No. CU -3517

Decision No. CU 3746

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Hays, St. John, Abramson & Heilbron
By Milton Sargoy, Esq.

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 \$9,243.25, was presented by BROADWAY BROKERS CORPORATION OF PENNSYLVANIA, based upon asserted debts from Cuban concerns that were intervened by the Government of 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 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.

An authorized officer of claimant has stated that claimant was organized under the laws of Pennsylvania; that at all pertinent times more than 50% of claimant's outstanding capital stock was owned by nationals of the United States; and that all of claimant's outstanding capital stock was owned by two persons at all pertinent times.

On a number of occasions, including October 1, 1968, December 3, 1968, February 26, 1969 and April 23, 1969, claimant was requested, through counsel, and directly, to submit appropriate evidence to establish the identity and nationality of the two stockholders. However, no replies to the last cited letters were received from claimant or counsel, and the record remains devoid of proof that claimant qualifies as a national of the United States within the meaning of Section 502(1)(B) of the Act.

Moreover, it was suggested to claimant on those occasions that further supporting evidence and/or clarification of documents of record be submitted for consideration by the Commission inasmuch as the documents submitted by claimant did not serve to clarify this claim. In a letter from counsel, dated September 20, 1968, responding to an earlier

Commission letter, it was stated, inter alia, that claimant did not assert the claimed losses as a tax deduction because it had been advised that "the losses had not been legally determined and were not liquidated".

The Commission finds that claimant has failed to sustain the burden of proof in that it has not established that it is a national of the United States, as defined by the governing statute, and has not established a loss within the meaning of Title V of the Act.

Accordingly, this claim is denied in its entirety.

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

JUL 9 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).)