

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

IN THE MATTER OF THE CLAIM OF

ENRIQUE R. DUCASSI

Claim No. CU -7328

Decision No. CU 4357

Under the International Claims Settlement
Act of 1949, as amended

Represented by Atlantic del Golfo Sugar Company

Counsel for Atlantic del Golfo Sugar Company: Dewey, Ballantine, Bushby,
Palmer & Wood
By William C. Bush, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in an un-stated amount, was presented by ENRIQUE R. DUCASSI, and is based upon the asserted loss of claimant's stock interest in a business enterprise known as Atlantica del Golfo Sugar Company. Claimant herein has been a national of the United States since his naturalization on November 28, 1966.

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 interests, 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 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.

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).)

The claimant herein stated that he purchased 100 shares of Atlantica del Golfo Sugar Company stock subsequent to August 6, 1960, the date that this Cuban enterprise was nationalized or otherwise taken by the Government of Cuba. Claimant was advised as to the type of evidence proper for submission to establish his claim under the provisions of the Act in Commission letters dated June 7, 1968, and January 15, 1969. However, claimant did not submit supporting evidence and did not respond to Commission correspondence.

The evidence indicates that claimant was not a national of the United States at the time the Atlantica del Golfo Sugar Company was nationalized by the Government of Cuba. Since the record herein contains no documentary evidence pertaining to nationality, date of ownership and value of the stock interest in question, the Commission again suggested in letter of October 28, 1969, that claimant forward evidence as previously suggested by the Commission. In this letter claimant was advised that if supporting evidence was not received within 45 days

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the Commission may determine the claim on the basis of the present record.

The Commission is constrained to find that claimant herein has not met the burden of proof in that he has failed to establish that he or a United States national owned rights and interests in property which was nationalized or expropriated by the Government of Cuba. Accordingly, the Commission is also 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

7 JAN 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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).)

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