

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

IN THE MATTER OF THE CLAIM OF

IRMA MERDINGER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -7729

Decision No. CU
3514

Counsel for claimant:

Dewey, Ballantine, Bushby, Palmer & Wood
By: William C. Bush, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by IRMA MERDINGER based upon an asserted loss arising out of ownership of 100 shares of stock of Atlantica del Golfo Sugar Company, a Cuban corporation.

The record shows that the 100 shares of said stock was acquired by claimant and her late husband in 1962, as joint tenants with the right of survivorship. Upon his death in 1967, claimant became the sole owner of all rights and interests with respect to these shares of stock. It further appears from the record that claimant and her late husband acquired nationality of the United States on April 4, 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 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.

On August 6, 1960, the Cuban Government published in its Official Gazette Resolution No. 1, pursuant to Law 851, which listed as nationalized Atlantica del Golfo Sugar Company. The Commission therefore finds that a claim based upon a stock interest in this nationalized Cuban corporation arose on August 6, 1960.

In the absence of evidence to the contrary, the Commission finds that claimant and her late husband acquired in 1962 a claim based upon the 100 shares of stock in question. At that time neither claimant nor her late husband were nationals of the United States.

The Commission therefore finds that this claim was not owned by nationals of the United States continuously from August 6, 1960, the date of loss, until the date of filing with the Commission in 1967.

Pursuant to the express provisions of Section 504 of the Act, this claim cannot be considered. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 (July-Dec. 1966))

Accordingly, this claim is denied in its entirety.

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

FEB 12 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).)

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