

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

IN THE MATTER OF THE CLAIM OF

H. WALTER DAVIS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2651

Decision No. CU - 3697

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 H. WALTER DAVIS for \$440.00 based upon an asserted loss in connection with stock of the Havana Racing Company, Inc. Claimant has been a national of the United States since birth.

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.

Claimant contends he has lost an investment of \$440.00 in the Havana Racing Company, Inc. of Delaware as a result of Castro's rise to power in Cuba. He has submitted a stock certificate, No. 9270, for 1,000 shares of common stock of Havana Racing Company, Inc., issued to H. Walter Davis & M. Magret Davis on November 26, 1957. This certificate reflects that Havana Racing Company, Inc., was incorporated under the laws of the State of Delaware, and that the certificate represents full-paid and non-assessable shares of the common stock of par value of ten cents each. Claimant purchased the 1,000 shares on September 13, 1957 at \$.44 per share.

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.

The Commission, however, has no information as to whether over 50 per centum of the capital stock of said corporation is owned by United States nationals, which would qualify it as a United States national within the purview of Section 502(1)(B) of the Act, and preclude the Commission from considering this claim. (See Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FCSC Semiann. Rep. 48 [July-Dec. 1966])

No claim was filed with the Commission by Havana Racing Company, Inc. Information available to the Commission in this and several similar claims reflects that Western Nebraska Oil & Uranium Co. changed its name to Havana Racing Company, Inc., in about 1957, acquiring all of the outstanding stock of Cuban Racing Company, Inc., a Cuban corporation, which assertedly had contracted to lease and purchase Oriental Park in Havana. Havana Racing Company, Inc., moved its Transfer Office to Oriental Park, Marianao, Havana, Cuba.

It appears, however, from information in a related State Department file, that the Havana Racing Company was only the sub-lessee of part of the land of the Hippodrome National, but was not the proprietor nor the owner of such properties. Accordingly, even if the Company had filed claim, in the absence of probative evidence, the Commission could not readily find a loss attributable to actions of the Cuban Government, nor the extent thereof.

In the absence of evidence that Havana Racing Company, Inc., is not qualified as a national of the United States, this claim is denied.

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

JUN 18 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).)