

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

IN THE MATTER OF THE CLAIM OF

SAMUEL MUTCHNICK

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 2875

Decision No. CU 162

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 SAMUEL MUTCHNICK in the amount of \$1,889.20 based upon the asserted ownership and loss of a stock interest. Claimant, SAMUEL MUTCHNICK, has been a national of the United States since his naturalization on July 23, 1929 in New York.

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.

Claimant has based his claim on 200 shares of Francisco Sugar Company. None of the certificates assertedly owned by claimant have been submitted to the Commission.

Section 502(1) of the Act defines the term "national of the United States" as "(B) 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 record reflects that Francisco Sugar Company was incorporated in the State of New Jersey. The Vice-President of Francisco Sugar Company has informed the Commission that over 50 per centum of the capital stock of said corporation is owned by United States citizens, which would qualify it as a United States national within the purview of Section 502(1)(B) of the Act.

Section 505(a) of the Act provides that

A claim under section 503(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered. . . .

The Commission concludes that since this claim is based on a stock interest in a corporation which qualifies as a United States national, the Commission is precluded, under Section 505(a) of the Act from considering this claim. Accordingly, it is hereby denied. (See the Claim of Mary F. Sonnenberg, FCSC Claim No. CU-0014.)

The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

JUL 26 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, 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).)

VERIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on AUG 25 1967

Francis M. ...
Clerk of the Commission