

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

IN THE MATTER OF THE CLAIM OF

CONSTANCE M. ATWOOD

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -5113

Decision No. CU 4396

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 CONSTANCE M. ATWOOD for \$20,000.00 based upon the asserted ownership and loss of a stock interest in the Preferred Havana Tobacco Company. Claimant, CONSTANCE M. ATWOOD, 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 enter-

prises 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.

The Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967, (FCSC Reg., 45 C.F. R. Sec. 531.1(d)(Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g))

No claim was filed with this Commission by or on behalf of claimant within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning his asserted loss.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.) This is such a claim.

Claimant has based her claim upon 800 preferred and 800 common shares of the Preferred Havana Tobacco Company. In support of her ownership, claimant submitted the original stock certificates, issued to her on May 11, 1954.

Section 503(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 affidavit of June 5, 1961, by Florence Samalman, Secretary of the Preferred Havana Tobacco Company, a corporation organized and existing under the laws of the State of Delaware, shows that all stockholders of that corporation are nationals of the United States. Therefore, the Preferred Havana Tobacco Company qualifies 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 Claim of Mary F. Sonnenberg, Claim No. CU-0014, 25 FCSC Semiann. Rep. 48 [July-Dec. 1966].)

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

13 JAN 1970

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Friedman*

Sidney Friedman, 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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