

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

IN THE MATTER OF THE CLAIM OF

KATHARINA WESTMEYER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8034

Decision No. CU-3435

Counsel for claimant:

Dewey, Ballantine, Bushby,
Palmer & Wood

Appeal and objections from a Proposed Decision entered January 9, 1969.

Hearing on the record held on February 19, 1969.

FINAL DECISION

By its Proposed Decision, the Commission denied this claim on the grounds that the claim was not continuously owned by a national of the United States from the date of loss on August 6, 1960 to the date on which it was filed with the Commission. Claimant stated she became a United States national on May 17, 1966.

Claimant objected to the findings of the Commission contending that the Commission should have given favorable consideration to her claim since she was a permanent resident of the United States since December 6, 1950. The Commission has considered the claimant's contention and the entire record, and finds that the evidence

does not afford a basis for the Commission to find that the claimant met the nationality requirement as provided by the Act. Accordingly, the claim is denied.

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

FEB 26 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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IN THE MATTER OF THE CLAIM OF

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3438

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Counsel for Claimant:

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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 Atlantica del Golfo Sugar Company in behalf of the claimant, for an unspecified amount based upon the asserted loss of a stock interest in Atlantica del Golfo Sugar Company. Claimant, KATHARINA WESTMEYER, states that she became a citizen of the United States on May 17, 1966 but that she became the beneficial owner of 41 shares of Atlantica prior to August 6, 1960.

Under Title V of the International Claims Settlement Act of 1949, as amended [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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States, . . . The term does not include aliens."

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

According to claimant's statements she was neither a national of the United States at the time she acquired her interest in Atlantica nor on August 6, 1960, the date Atlantica was nationalized by the Cuban Government. Therefore, it is clear that this claim was not continuously owned by a national of the United States from the date of loss on August 6, 1960 to the date on which it was filed with the Commission.

Accordingly, the Commission concludes that this claim is not valid under Title V of the Act in that it was not continuously owned by a national of the United States from the date of loss to the date of filing with the Commission and, therefore, it is hereby denied.

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.

JAN 8 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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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(c) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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