

# 15

Failure to pursue claim

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

IN THE MATTER OF THE CLAIM OF

STEEL HEDDLE MANUFACTURING COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0737

Decision No. CU-24

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$4,189.29 was presented by STEEL HEDDLE MANUFACTURING COMPANY based upon the asserted ownership of unpaid invoices for merchandise ordered and shipped to three Cuban consignees.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

- (a) . . . 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" 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 claim form presented in this matter was signed by E. Robert Balderson, Treasurer. Item 11 of the claim form recites that at all times between January 10, 1898 and presentation of the claim, more than 50 per cent of the outstanding capital stock was owned by United States nationals; that on the date of loss (asserted as December 31, 1962) claimant had outstanding 151, 427 shares of capital stock held by 117 persons; and that on date of presentation of the claim (May 18, 1966) it had outstanding 174, 895 shares of capital stock, held by 130 persons. No statement by the secretary or other principal officer of the corporation certifying the above was presented with the claim, as specified at the end of Item 11 of the claim form.

The claim is based on unpaid invoices for merchandise said to have been ordered and shipped to three consignees in Cuba. No evidence was submitted in support of this allegation.

Although the claimant has the burden of proof in establishing his claim, suggestions were made to claimant as to evidence appropriate to submit in support of the claim. By Commission letter of August 3, 1966 it was suggested that there be submitted a certificate of a corporate

officer concerning the number and nationality of stockholders; evidence as to the place of organization of the claimant and copies of invoices. It was also suggested that claimant submit any evidence it might have reflecting that any payments had been made by consignees to banks in Cuba. This suggestion was based on evidence in many claims before the Commission reflecting that frequently consignees paid their debts, although funds were not transmitted to claimants.

As no reply was received to the Commission's letter of August 3, 1966 it was considered appropriate to remind the claimant. Accordingly on October 25, 1966 a letter was dispatched reminding claimant that no reply had been received.

By letter of November 8, 1966, STEEL HEDDLE MANUFACTURING COMPANY, through its Treasurer, E. Robert Balderson, has addressed the Commission as follows:

Thank you for your letter dated October 25, 1966 regarding your suggestion that certain evidence be submitted in support of the above referenced claim.

We have given this matter our careful consideration and are of the opinion that the evidence you requested is unreasonable and does not warrant our further attention.

From the foregoing, it is clear that the claimant does not choose to establish whether it is a corporation which qualifies as a national of the United States in that 50 per centum or more of its outstanding capital stock was owned directly or indirectly by natural persons who are citizens of the United States, as is required under the provisions of section 502(1)(B) of Title V of the Act.

Moreover, even if the claimant did establish that it is a qualified claimant under the Act, it has not established, and apparently does not choose to establish, that it has any claim against the Government of Cuba.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is denied.

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

30 NOV 1966

*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 20 days after service or receipt of notice of this Proposed Decision upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) (1964))

THIS DECISION WAS ENTERED AS THE COMMISSION'S  
FINAL DECISION ON 13 JAN 1967

*Francis MacLennan*  
Clerk of the Commission

CU-0737