

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

IN THE MATTER OF THE CLAIM OF

JOHN CUFF

Claim No. CU-1085

Decision No. CU -1618

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on April 20, 1968. Oral hearing was scheduled for June 18, 1968 at 10:00 a.m. at the offices of the Commission, 1111-20th Street, Northwest, Washington, D. C. with due notice thereof given to the claimant. No request for a continuance was made and the claimant failed to appear in person or by attorney at the scheduled time.

FINAL DECISION

Full consideration having been given to the objections of the claimant, and the entire record having been reviewed, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that the Proposed Decision be and the same is hereby affirmed as the Final Decision of the Commission in this claim.

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

26 JUN 1968

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

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

IN THE MATTER OF THE CLAIM OF

JOHN W. CUFF

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1085

Decision No. CU 618

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$4,000.00, was presented by JOHN W. CUFF and is based upon the asserted loss of stock interests in the Bangor Punta Alegre Sugar enterprise. 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.

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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the loss of stock interests in Bangor Punta Alegre Sugar enterprise. By Commission letter of March 6, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. In response to this correspondence claimant submitted evidence of his birth in the United States and a letter dated August 21, 1967 from Montgomery, Scott & Co., a brokerage firm, indicating the purchase of shares of the aforementioned stock for the claimant on February 2, 1955 and the resale of all of his shares of that stock at various intervals subsequent thereto. On September 27, 1967, claimant was advised of these facts and that under such circumstances the claim would not be compensable. He was invited to submit any evidence available to him within thirty days from that date that might be beneficial to his interest in this matter, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, 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).)

CU-1085