

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

IN THE MATTER OF THE CLAIM OF

CLARK EDWARD VINCENT

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1167

Decision No. CU 3150

PROPOSED DECISION

Claimant, CLARK EDWARD VINCENT, who owned a participation interest in the Cuban Venezuelan Oil Voting Trust, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Trust.

In our decision entitled the Claim of Felix Heyman (Claim No. CU-0412 which we incorporate herein by reference), we held that the properties owned or controlled by the Trust were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per unit of \$0.11971.

On the basis of evidence of record in the instant case, the Commission finds that claimant, a United States national since birth, is the owner of 4,000 units of participation in the Cuban Venezuelan Oil Voting Trust, having purchased 2,000 units on December 31, 1959 for \$375.00, 1,000 units on December 20, 1962 for \$60.00, and 1,000 units on January 3, 1963 for \$60.00. It will be noted that all 4,000 units were acquired by claimant subsequent to November 23, 1959, the date of nationalization of the property of the Trust.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been owned continuously by a national or nationals of the United States from the date of

loss to the date of filing with the Commission. There is no evidence of record to establish that claimant's units of participation were owned by a United States national from November 23, 1959, the date of loss, to the dates when claimant acquired them. Evidence of record in other claims before the Commission discloses that units of participation in the Cuban Venezuelan Oil Voting Trust were owned and traded almost entirely by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed units of participation were owned continuously by a national or nationals of the United States from the date of loss to the dates on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the units were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The claim with respect to these units of participation having arisen on November 23, 1959, and claimant having succeeded to the claim as an assignee by purchase, the certification of loss is limited by the provisions of Section 507(b) of the Act to the actual consideration paid. Inasmuch as the value of the 2,000 units purchased on December 31, 1959, at \$0.11971 per unit, is \$239.42, or less than the consideration paid, the limitation is not for application to these units. However, as to the 1,000 units purchased on January 3, 1963, the certification of loss in each case is limited to \$60.00, the actual consideration paid.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date on which provisions are made for the

settlement thereof. (See Claim of Lisle Corporation, FCSC Claim No. CU-0644.) However, in the case of an assignee by purchase who acquired his interest in a claim subsequent to the date of loss, the Commission has concluded that the amount certified shall be increased by interest at the rate of 6% per annum from the date on which claimant acquired the claim, rather than the date of loss, to the date on which provisions are made for the settlement thereof. (See Wikler, supra.) Accordingly, in the instant claim, interest is to be included in the certification of loss as follows:

<u>FROM</u>	<u>ON</u>
December 31, 1959	\$239.42
December 20, 1962	60.00
January 3, 1963	<u>60.00</u>
	\$359.42

CERTIFICATION OF LOSS

The Commission certifies that CLARK EDWARD VINCENT succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Hundred Fifty-Nine Dollars and Forty-Two Cents (\$359.42) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

5 OCT 1963

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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).)

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.