

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

IN THE MATTER OF THE CLAIM OF

LOUIS I. BERMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2491

Decision No. CU 1742

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 \$241.22, was presented by LOUIS I. BERMAN, and is based upon an asserted loss arising from the decrease in value of a stock interest in a Cuban enterprise. Claimant has been a national of the United States since his naturalization on January 30, 1934.

Under Title V of the International Claims Settlement Act of 1949, [78 Stat. 1110 (1964), 22 U.S.C. §§1543-1543i (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 existing 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 that he was the owner of 55 shares of stock in the Havana Lithographing Company of Cuba; that he purchased thirty (30) shares of said stock on June 10, 1946 and twenty-five (25) shares of said stock on July 15, 1948 for \$116.25 and \$84.38, respectively; and that he sold the subject shares on December 29, 1964 at a net loss of \$241.22; and makes claim for that amount. Claimant has submitted no documentary evidence in support of his claim; however, other factors are dispositive of this matter.

According to claimant's own statements, he transferred his stock interests subsequent to the date of loss, and prior to filing claim with the Commission. Therefore, he does not make claim for the loss of his stock interest, but rather, for the difference between the total of the respective purchase prices and the 1964 selling price, assertedly a total of \$241.22. The question thus presented is whether a claim for such a loss is compensable under the Act.

Ownership of a stock interest in a foreign corporation vests, in the owner, two items of property: an interest in the net worth of the corporation and an interest in any claim for nationalization. Upon a sale of that stock interest, and in the absence of any specific reservation, the seller transfers all rights incident to that stock. Claimant has neither alleged nor proven that he retained any interest in a claim for the nationalization of corporate assets.

Therefore, while claimant may have had a claim for his interest in the nationalized company, he no longer owned a claim after the 1964 sale of his stock. The sole claim owned by him was for his interest in a corporation nationalized by the Government of Cuba; not for any decrease in the value of his stock shares. While claimant may have sustained a loss on the sale of his interest, it was not a loss on which the Commission, under the provisions of the Act, could render a favorable determination.

Since claimant has not established that he retained any interest in a claim for the nationalization of the company, and since a claim for the decrease in value of his stock would not be compensable under the Act, this claim must be, and is, denied.

The Commission deems it unnecessary to determine other elements of this claim.

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

APR 24 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).)

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