

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

IN THE MATTER OF THE CLAIM OF

ETHEL L. WHITE

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-5022

Decision No. CU -

4020

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 \$2,325.00, was presented by ETHEL L. WHITE and is based upon the loss assertedly sustained through asserted ownership of securities of the Consolidated Railroads of Cuba. Claimant has been a national of the United States since naturalization on January 28, 1944.

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 first submitted one page of a claim form on which she asserted purchase of the securities on December 14, 1953 for \$2,325.00. She also submitted the securities of the Consolidated Railroads of Cuba, described below:

Income Debenture RV14210 issued to  
W.E. Hutton & Co. on April 1, 1960

Income Debenture RV5429 issued to  
Walston & Co. on April 1, 1953

Accrual Certificate for 2.900 pesos issued to  
Merrill Lynch, Pierce, Fenner & Beane.

The Commission has held that the properties of the Railroad were nationalized or otherwise taken by the Government of Cuba on October 13, 1960 (See Claim of Meyer Lobsenz, Claim No. CU-1005; and Claim of Edward R. Smith, Claim No. CU-5001).

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.

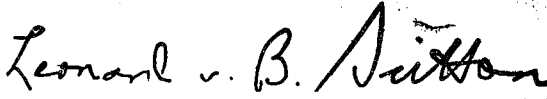
In its decision in the Claim of the Executors of the Estate of Julius S. Wikler, Deceased (CU-2571), the Commission held that in some circumstances an inference of continuous United States ownership may be justified, while limiting recovery of an assignee to the price paid (Sec. 507 of the Act).


Accordingly, by Commission letters of February 9 and July 19, 1968, as well as April 28 and May 13, 1969, claimant was advised, as to the type of evidence proper for submission to establish this claim under the Act. However, other than a completed claim form no evidence in response to this correspondence has been received to date.

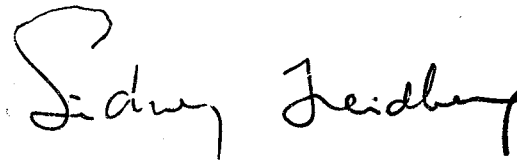
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby 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

OCT 8 1969

  
Leonard v. B. Sutton, Chairman

  
Theodore Jaffe, Commissioner

  
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).)