

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

IN THE MATTER OF THE CLAIM OF

IBOLYA ENGEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8127

Decision No. CU
2986

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by IBOLYA ENGEL, in an unstated amount, based upon the asserted loss of 200 units of participation in the Cuban Venezuelan Oil Voting Trust, a Cuban corporation, doing business in Cuba. Claimant has been a national of the United States since her naturalization on November 11, 1954.

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 502(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 evidence of record discloses that the 200 units of participation in the Cuban Venezuelan Oil Voting Trust were purchased by Olga Engel on December 14, 1959, and were transferred during December 1959 by Olga Engel to IBOLYA ENGEL and Certificate NY 125288 was issued to the claimant, dated October 5, 1961. As stated above, claimant, IBOLYA ENGEL, has been a national of the United States since November 11, 1954. However, evidence of record discloses that Olga Engel did not acquire nationality of the United States until May 29, 1962.

Section 502(1)(A) of the Act defines the term "national of the United States" to mean a natural person who is a citizen of the United States. The term does not include aliens.

Thus, 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 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. (See Claim of Joseph Dallos Hollo, Claim No. CU-0101, 25 FCSC Semiann. Rep. 46 [July-Dec. 1966]).

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Under the provisions of Sections 502(3), 503(s) and 504(a) of the Act, supra, the claimant must establish that the property, subject of her claim, or the claim for such property, were owned continuously in whole or in part by a national or nationals of the United States from the date of loss to the date of filing claim therefor with this Commission. Evidence of record discloses that the Cuban Venezuelan Oil Voting Trust was nationalized or otherwise taken by the Government of Cuba on November 23, 1959.

Inasmuch as claimant herein has indicated that she acquired the units of participation in December 1959, subsequent to nationalization of the business enterprise, from Olga Engel, who acquired nationality of the United States in 1962, it is clear that the claim has not been continuously owned by a national or nationals of the United States from the date of loss until the date of filing claim herein.

Accordingly, under the aforesaid provisions of the Act, the instant claim cannot be compensable thereunder. The Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of this claim.

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

SEP 4 1968

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).)