

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

IN THE MATTER OF THE CLAIM OF

NICOLASA LUGO

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -8303

Decision No. CU ~~32~~65

Counsel for claimant:

Gino P. Negretti, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by NICOLASA LUGO on October 9, 1968 for \$30,000.00, based upon the asserted loss of a stock interest in the Copetrol Oil Refining Company, S.A., doing business in Havana, Cuba, and assertedly nationalized or otherwise taken by Cuban governmental authorities in January 1959. Claimant stated that he has been a national of the United States since his naturalization on September 15, 1967.

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.

The Commission has not determined the extent of consideration which may be given to claims filed under Section 503(a) of the Act, subsequent to the close of the formal filing period on May 1, 1967. Other considerations, however, impel a determination of claimant's status in the instant case.

Section 504(a) of the Act provides, as to Ownership of Claims, that

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.

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.

Claimant has submitted Certificate #3 for 1200 shares of Series A preferred stock, Nos. 49,201 to 50,400, issued by the Copetrol Oil Refining Company, S.A., of Havana, Cuba, on October 24, 1958, and the record indicates that claimant was apparently the owner of such stock interest when the aforesaid firm was nationalized or otherwise taken by the Government of Cuba in 1959; and that he has retained ownership of the claim for such loss from the date of loss in 1959 to the present time. As stated above, claimant herein acquired nationality of the United States on September 15, 1967.

In order for the Commission to favorably consider timely filed 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. (See the Claim of Joseph Dallos Hollo, Claim No. CU-0101, 25 FCSC Semiann. Rep. 46 [July-Dec. 1966]).

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, and assuming the claim were timely filed, not only should the claimant herein establish that he owned property which was nationalized or otherwise taken by the Government of Cuba, but he should also establish that some measure depriving him of his interest therein was applied by the Government of Cuba after January 1, 1959, and subsequent to the date on which he acquired citizenship of the United States. Inasmuch as claimant herein has indicated that he acquired United States citizenship in 1967, his claim, filed under the aforesaid provisions of the Act, cannot be compensable thereunder.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of Title V of the Act, supra, and it is denied.

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

OCT 30 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).)

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