

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

IN THE MATTER OF THE CLAIM OF

A. G. SUNDSTROM, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0932

Decision No. CU - 1587

Appeal and objections from a Proposed Decision entered on April 10, 1968.
Oral hearing requested.

Oral hearing held on August 20, 1968.

FINAL DECISION

Under date of April 10, 1968, the Commission issued its Proposed Decision denying this claim for lack of proof. Claimant objected to the Proposed Decision and requested an oral hearing which was held on August 20, 1968.

At the hearing, claimant appeared on his own behalf and offered oral testimony. Subsequently, claimant submitted documentary proof and other competent evidence in support of his claim.

Upon consideration of claimant's testimony and the evidence submitted thereafter, and in light of the entire record, the Commission now makes the following findings:

1. Claimant owned 56 shares of stock in Powe Equipment Company, S.A., a Cuban corporation. The Commission has found that Powe Equipment Company, S.A. was nationalized by the Government of Cuba on October 24, 1960, and that each share of its outstanding capital stock had a value of \$1,902.205. (See Claim of William A. Powe, Claim No. CU-0502.) The Commission therefore finds that claimant's stock interest had a value of \$106,523.48.

2. Claimant owned Cuban pesos having a value of \$9,900.00 which he had left with a private depository in Havana, Cuba. The Commission has held that although such private depository was beyond the jurisdiction of the Cuban Government, the action of Cuba pursuant to Article X of Law 863, published in the Cuban Official Gazette on August 4, 1961, rendered all such funds null and of no legal effect. (See Claim of Betty G. Boyle, Claim No. CU-3473.) Accordingly, the Commission finds that claimant sustained a loss of \$9,900.00 on August 4, 1961.

3. Claimant owned a parcel of land in Camaguey, Cuba, near the property of the Powe Equipment Company, S.A. The Commission finds that the land was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989, and that it had a value of \$800.00 on the date of loss.

4. Claimant owned several parcels of land in Camaguey Province and in the Isle of Pines, Cuba. On some of the land in Camaguey, claimant constructed a large residence and garage and made other improvements. The Commission finds that the said land and buildings were taken by the Government of Cuba on December 6, 1961 under Law 989. It appears that claimant had received an offer of about \$160,000.00 for said properties. The Commission finds that claimant's land and buildings had an aggregate value of \$160,000.00 on the date of loss.

5. Claimant owned certain items of personal property, including furniture, equipment, appliances and 2 automobiles which he maintained at his residence. The Commission finds that said personal property was taken by Cuba on December 6, 1961 when the house was taken. The Commission finds that the values of claimant's personal properties on December 6, 1961 had a value of \$24,913.00, after deductions for depreciation, except that silver is not depreciated; and the automobiles, after appropriate depreciation, had a value of \$2,940.00.

Claimant's losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Stock interest	October 24, 1960	\$106,523.48
Cuban currency	August 4, 1961	9,900.00
Land	December 6, 1961	800.00
Land and buildings	December 6, 1961	160,000.00
Personal property	December 6, 1961	<u>27,853.00</u>
	Total	<u>\$305,076.48</u>

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

The Commission has decided that in certifications of loss 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 of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
October 24, 1960	\$106,523.48
August 4, 1961	9,900.00
December 6, 1961	<u>188,653.00</u>
	<u>\$305,076.48</u>

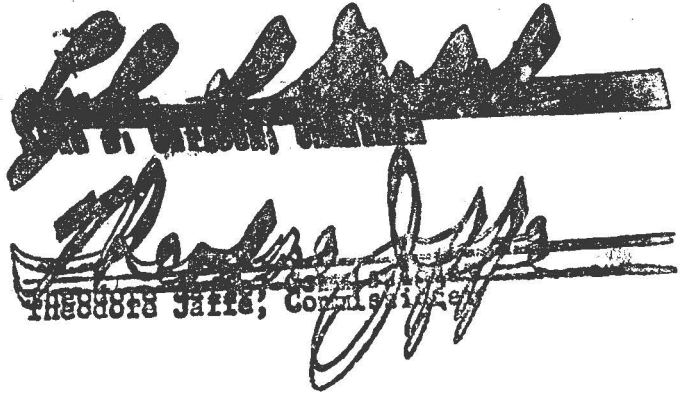
Accordingly, the following Certification of Loss will be entered and in other respects the Proposed Decision as amended herein is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that A. G. SUNDSTROM, JR. 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 Five Thousand Seventy-Six Dollars and Forty-Eight Cents (\$305,076.48) with interest at 6% per annum the respective dates of loss to the date of settlement.

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

SEP 15 1971



A large, dark, handwritten signature is written over a rectangular stamp. The stamp contains the text "FREDERICK JAFFE, Commissioner" in a bold, sans-serif font. The signature is written in a cursive style and extends across the width of the stamp.

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.

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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 \$290,276.12, was presented by A. G. SUNDSTROM, JR., and is based upon the asserted loss of land, buildings, furnishings, and a stock interest in Powe Equipment Co., S. A., a Cuban corporation. Claimant has been a national of the United States since his birth.

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).)

In support of this claim, filed on January 9, 1967, claimant submitted the following evidence and information: a five-page statement of his claim; evidence of his United States nationality; photocopies of pages from the "Official Gazette" assertedly related to the losses which are the subject matter of this claim; and a financial statement in regard to Powe Equipment Company, including a balance sheet for the period June 30, 1960. The record also includes correspondence between the claimant and the United States Department of State regarding subject losses.

Inasmuch as claimant had not submitted sufficient evidence to establish a compensable claim under the Act, by Commission letter of September 7, 1967, it was suggested that the following additional evidence be submitted; evidence to establish his ownership of stock in Powe Equipment Company, S. A., together with the date of purchase of the stock and the consideration paid therefor; and additional evidence to establish ownership, value and loss of the parcels of improved real property. No evidence was submitted in response to the Commission's suggestions.

Thereafter, by Commission letter of November 17, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted; neither has claimant corresponded with the Commission.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is 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

APR 10 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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