

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

IN THE MATTER OF THE CLAIM OF

CATHERINE S. DE COUP-CRANK
ALBERT EDWARD STUNTZ
LIDA M. S. HILL

Claim No. CU-3462
Claim No. CU-3564
Claim No. CU-3668
Decision No. CU

2146

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the total amount of \$31,165.00, were presented by CATHERINE S. DE COUP-CRANK, ALBERT EDWARD STUNTZ and LIDA M. S. HILL, and are based upon the asserted loss of real property located in Havana, Cuba, and a bank account. Claimants have been nationals of the United States at all times pertinent to these claims.

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 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 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.

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.

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.

Evidence available to the Commission, including a 1932 Contract of Partition and Sale, discloses that John Edward Stuntz purchased improved real property at the corner of 12th Avenue and 8th Street, Reparto Barreto, Havana, Cuba, which is registered in Volume 511, folio 236, finca 17, 106, Havana land registry. The record also includes correspondence, tax notices and a certified copy of the Will of the late John Edward Stuntz which was duly admitted to probate in Los Angeles County, California, following his demise in that County on November 27, 1957. The evidence discloses that the claimants herein inherited respective one-third interests in the estate of their late father, John Edward Stuntz, including properties which are the subject of these claims.

The record also includes affidavits, correspondence and a receipt dated August 31, 1959, issued for salvage material, disclosing that the improvements on the land at the aforesaid location in Havana, Cuba, including a 2-story house with garage, were torn down in 1959, leaving a lot comprising approximately 1,078 square meters. The record discloses that following the demolition of the improvements the lot was to be subdivided by the agents of claimants in Havana and sold in smaller lots in order to facilitate a sale of the subject property. However, the record also discloses that the unimproved land was owned by the claimants herein,

with respective one-third interests, and no sale had been effected at the time of nationalization or other taking by the Government of Cuba, as discussed hereafter.

On December 6, 1961, the Cuban Government published Law 989 in the Official Gazette, XXIII, No. 237, p. 23705. This law confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. As the record shows, in December 1961, claimants resided in the United States or areas other than Cuba. The Commission finds, in the absence of evidence to the contrary, that the land at the aforesaid location in Havana, subject of these claims, was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

The Act provides, in Section 503(a), that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

Evidence of record discloses that the late John Edward Stuntz paid "\$15,000.00 in gold" when purchasing the improved real property in 1926. Further, 1959 correspondence with a real estate agent in Havana discloses that prior to demolition the property was being offered for sale at \$25,000.00; that the improvements were in need of extensive repairs; that the improvements could be torn down and the land sub-divided into smaller lots for sale; and an offer had been made to the agent to buy the property for \$15,000.00 but such offer was declined. Claimants have also submitted information concerning the valuation and loss of the land which was submitted to the Internal Revenue Service in connection with their respective 1959 income tax returns. Based upon the entire record, including evidence available to the Commission concerning the value of similar lots or land in this area of the City of Havana, the Commission

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finds that the lot herein was valued at \$20,000.00 at the time of taking by the Government of Cuba and that claimants suffered a loss in this amount within the meaning of Title V of the Act.

This leaves for consideration a portion of the claim asserted for loss of a bank account which was maintained at the Havana branch of the First National City Bank of New York. The claimants have submitted evidence, including a bank statement, from this bank showing that the late John Edward Stuntz had a balance of 640.09 pesos as of March 31, 1958; that the sum of 524.77 pesos was deposited in this bank to the credit of the account of the aforesaid decedent on May 21, 1958; and that no withdrawals were made from the account, in the total sum of 1,164.86 pesos, prior to the time of taking by the Government of Cuba.

Law 568, published in the Cuban Official Gazette on September 29, 1959, forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Law 963 and 964 do not affect the instant claims in which the account did not arise from currency exchange.

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As stated above, Law 989, published in the Official Gazette on December 6, 1961, by its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Law 963 and 1964, supra. The Commission finds, as discussed above, that claimants inherited respective one-third interests in the bank account in question; and, in the absence of evidence to the contrary, the Commission finds that claimants' above-described bank account, totalling 1,164.86 pesos, was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]).

Further, the Commission finds that on December 6, 1961, claimants' 1,164.86 pesos had a value of \$1,164.86, and that they suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of the bank account by the Government of Cuba as of December 6, 1961.

The following recapitulation will disclose the real and personal property losses of claimants herein, under Title V of the Act, and will set forth their respective interests in the properties, subject of the claims:

	<u>RECAPITULATION</u>		
<u>Claimant</u>	<u>Land in Havana</u>	<u>Bank Account</u>	<u>Total</u>
CATHERINE S. DE COUP-CRANK	\$6,666.66	\$388.29	\$7,054.95
ALBERT EDWARD STUNTZ	6,666.67	388.29	7,054.96
LIDA M. S. HILL	<u>6,666.67</u>	<u>388.28</u>	<u>7,054.95</u>
T O T A L S . . .	\$20,000.00	\$1,164.86	\$21,164.86

The Commission has decided that in certification of losses 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 date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, to the date of which provisions are made for settlement thereof.

CERTIFICATION OF LOSSES

The Commission certifies that CATHERINE S. DE COUP-CRANK 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 Seven Thousand Fifty-Four Dollars and Ninety-Five Cents (\$7,054.95), with interest thereon at 6% per annum from December 6, 1961, to the date of settlement;

The Commission certifies that ALBERT EDWARD STUNTZ 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 Seven Thousand Fifty-Four Dollars and Ninety-Six Cents (\$7,054.96), with interest thereon at 6% per annum from December 6, 1961, to the date of settlement;

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The Commission certifies that LIDA M. S. HILL 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 Seven Thousand Fifty-Four Dollars and Ninety-Five Cents (\$7,054.95), with interest thereon at 6% per annum from December 6, 1961, to the date of settlement.

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

JUL 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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.

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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