

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

IN THE MATTER OF THE CLAIM OF

MARIO MERENDI  
JULIA MERENDI

Claim No CU-0872

Decision No. CU 6279

Under the International Claims Settlement  
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$23,881.61 is based upon the asserted loss of bank accounts, cash, stock interests, a debt claim and pension rights. Claimant MARIO MERENDI has been a national of the United States since his naturalization on October 24, 1918. His wife, JULIA MERENDI, having had an interest in the property in Cuba, has been joined in the claim. The record shows that JULIA MERENDI was a national of the United States in 1943 and continuously thereafter.

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.

Claimant MARIO MERENDI stated that he sustained losses with respect to the following property:

- (1) Bank accounts in two banks in Havana;
- (2) Cash in a safe deposit box in a bank in Havana;
- (3) 5000 shares in the Versailles Oil Corporation;
- (4) A loan granted to the American Club in Havana; and
- (5) Pension rights due from the Social Security Bank of Cuba.

In support of the claim, MARIO MERENDI submitted bank statements, receipts, correspondence with the American Club in Havana, and other documentation.

The Commission will discuss the various items of the claim under separate headings.

(1) Bank accounts

On the basis of the evidence of record, the Commission finds that on August 31, 1960 MARIO MERENDI had a balance of \$5,167.48 with the Chase Manhattan Bank, Havana Branch, and a balance of \$214.13 with the First National City Bank of New York, Havana Branch. Claimants left Havana for the United States by the end of May, 1960; on September 29, 1959 by Law 568 the Government of Cuba forbade the transfer of funds abroad and effectively operated to block the funds of anyone who left Cuba. Law 989 published in the Official Gazette on December 6, 1961, confiscated all goods and chattels, rights, shares, stock, bonds and other securities of persons who left the country of Cuba. This included bank accounts such as those described in this paragraph. In the absence of evidence to the contrary, the Commission finds that the aforesaid bank accounts totaling \$5,381.61 were 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]).

CU-0872

According to the community property law of Cuba, the property acquired by one or both spouses during the marriage from funds of the marriage partnership or by the industry, salary or work of either or both spouses, and the fruits thereof, belong in equal parts to both spouses (see Claim of Robert L. Cheaney and Marjorie Cheaney, Claim No. CU-0915). The Commission therefore concludes that with respect to the above described bank accounts MARIO MERENDI suffered a loss of \$2,690.81 and JULIA MERENDI a loss in the equal amount of \$2,690.81.

(2) Cash

MARIO MERENDI states that he had in a safe deposit box at the Royal Bank of Canada, Havana Branch, cash in the amount of \$800.00. He submitted two receipts each for \$9.44 which show that he and his wife JULIA had rented from the said bank safe deposit box No. 26-A for the years 1959 and 1960, but nothing in the record establishes that the safe deposit box contained cash in the amount of \$800 or in any other amount.

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)(1970).)

The Commission finds that claimants have not met the burden of proof in that they have not established that they had on deposit with the Royal Bank of Canada, Havana Branch, cash in the amount of \$800.00 and the portion of the claim for the loss of this cash is therefore denied.

(3) Versailles Oil Corporation

Claimant MARIO MERENDI states that he was the owner of 5,000 shares of stock of the Versailles Oil Corporation and that the stock certificates were held in the same safe deposit box to which reference is made above under (2). While the ownership of this stock has not been established by appropriate evidence, it is noted that the company, also known as Compania de Inversiones Petroleras Versailles S.A. was organized under Cuban law and that it had an authorized capital of \$5,000,000 divided in shares having a par value of 20 cents each. The record shows that only a small number of

shares was placed in Cuba; that its only assets consisted of certain oil drilling concessions; that the company never commenced drilling for oil; that no stockholders meeting were held and no balance sheets published. There is no evidence of record to establish the net worth of the company at the time when the oil drilling concessions were invalidated by the Cuban Government (November 29, 1959). On the basis of this record the Commission finds that claimants have neither established that they were the owners of 5,000 shares of stock of the Compania de Inversiones Petroleras Versailles S.A., nor that the stock had any value at the time of the loss. Accordingly, this portion of the claim is also denied.

(4) Loan to American Club in Havana

Claimants assert a loss based upon a loan to the American Club in Havana in the amount of \$5,000.00. The Commission's record and claimant's evidence show that the American Club in Havana was a non-profit organization of members who in their majority were citizens of the United States.

Section 505(a) of the Act provides that a claim for a debt owing by an American entity shall be considered only when such debt was a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

There is no evidence on record that the property of the American Club in Havana was nationalized, expropriated, intervened or taken by the Cuban Government, and the facts indicate that the loan was not secured by any property of the American Club. In the absence of these prerequisites this portion of the claim also must be and it is hereby denied.

(5) Pension rights

The evidence discloses that MARIO MERENDI was entitled to receive beginning April 1960 a yearly pension of \$1,800 less 20% (this deduction was made under the law because he had not contributed to the pension fund continuously through 10 years). The annuities were payable in monthly instalments by the Social Security Bank of Cuba, but MARIO MERENDI received

payments only until the end of August, 1960; from that date all payments were discontinued. The Commission finds that MARIO MERENDI's pension rights amounting to \$1,440.00 per year were, in fact, taken by the Government of Cuba, on September 1, 1960.

There remains for determination the value of the pension rights which had accrued to MARIO MERENDI since September 1, 1960, when he was 70 years of age.

The Commission has adopted as a basis for the valuation of annuities the Makehamized mortality table, appearing as Table 38 of the United States Life Tables and Actuarial Tables 1939-1941, published by the United States Department of Commerce, Bureau of Census, as prescribed by United States Treasury Department Regulations of June 24, 1958, for the collection of gift and Estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031-2037.) According to that method of valuation, the value of an annuity for a person of the age of 70 amounts to 7.8200 times the yearly sum of the annuity. The yearly annuity amounted to \$1,440.00 (the peso being considered on a par with the United States dollar), and the value of the annuity was therefore \$11,260.80.

#### Recapitulation

Summarizing, the claimants sustained the following losses within the meaning of Title V of the Act:

##### MARIO MERENDI

<u>Property</u>	<u>Date of loss</u>	<u>Amount</u>
Bank accounts	December 6, 1961	\$ 2,690.81
Pension rights	September 1, 1960	<u>11,260.80</u> \$13,951.61

##### JULIA MERENDI

Bank accounts	December 6, 1961	\$ 2,690.81
---------------	------------------	-------------

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 from the above recited dates of loss.


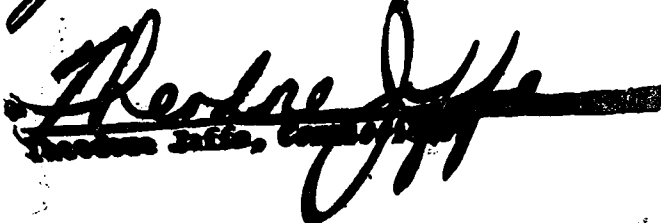
CERTIFICATION OF LOSS

The Commission certifies that MARIO MERENDI 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 Thirteen Thousand Nine Hundred Fifty-One Dollars and Sixty-One Cents (\$13,951.61) with interest at 6% per annum from the respective dates of loss to date of settlement; and

The Commission certifies that JULIA MERENDI 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 Two Thousand Six Hundred Ninety Dollars and Eighty-One Cents (\$2,690.81) with interest 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 28 1971

  
Lyle S. Garlock, Chairman  
  
Theodore J. Hoff, Secretary

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 (1970).)

CU-0872