

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

IN THE MATTER OF THE CLAIM OF

HENRY J. MILLER
GERTRUDE C. MILLER

Claim No. CU-3037

Decision No. CU-1090

Under the International Claims Settlement
Act of 1949, as amended

Petition to reopen; Proposed Decision dated and entered January 31, 1968; Final Decision entered March 5, 1968.

AMENDED FINAL DECISION

Under date of January 31, 1968, the Commission entered its Final Decision on this claim denying it in its entirety for lack of proof. Subsequently, claimants submitted evidence establishing that they each owned a 1/2 interest in a \$1,000.00 Belen bond issued by the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana, which submission is deemed to constitute a petition to reopen this claim. However, no evidence was submitted to establish that GERTRUDE C. MILLER has been a United States national at all pertinent times.

Upon consideration of the new evidence, the Commission amends the decision in this matter as follows:

In our decision entitled the Claim of Gustavus Basch (Claim No. CU-0972 which we incorporate herein by reference), we held that the properties of the College were nationalized or otherwise taken by the Government of Cuba on May 3, 1961, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per \$1,000.00 bond of \$459.17 including interest to May 3, 1961.

On the basis of evidence in the record in the instant claim, the Commission finds that HENRY J. MILLER comes within the terms of the Basch decision; that he has been an American national at the requisite times; and that he has owned a 1/2 interest in one \$1,000.00 Belen bond since prior to May 3, 1961; and that he suffered a loss in the total amount of \$229.59 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from May 3, 1961, the date of loss, to the date on which provisions are made for the settlement thereof. (See Basch, supra.)

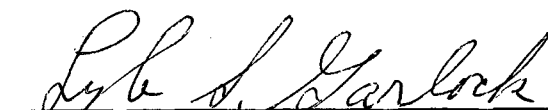
Accordingly, the following Certification of Loss will be entered, and in all other respects the Final Decision of March 5, 1968, as amended herein, is affirmed.


CERTIFICATION OF LOSS

The Commission certifies that HENRY J. MILLER 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 Hundred Twenty-Nine Dollars and Fifty-Nine Cents (\$229.59) with interest thereon at 6% per annum from May 3, 1961, to the date of settlement.

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

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities or the loss here certified.

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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IN THE MATTER OF THE CLAIM OF

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GERTRUDE C. MILLER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3037

Decision No. CU 1090

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 \$1,000.00, was presented by HENRY J. MILLER and GERTRUDE C. MILLER, and is based upon the asserted loss of an interest in a bond issued by the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana. Claimant HENRY J. MILLER has been a national of the United States since his birth. No information concerning the nationality of GERTRUDE C. MILLER has been submitted.

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).)

Claimants assert that they were the owners of a First Mortgage 5-1/4% Six Year Gold Bond issued by the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana, and that, as a result of intervention by the Government of Cuba of all the properties of the College on May 3, 1961, they sustained a loss in connection with their bond within the meaning of Title V of the Act.

By Commission letter of June 22, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of August 18, 1967, the Commission made additional suggestions to claimants concerning the submission of supporting evidence in this matter. However, no evidence in response to this correspondence has been received to date.

On October 4, 1967, claimants were invited to submit any evidence available to them within 45 days from that date, and they were 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.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby 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

JAN 31 1968

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

RECORDED
This is a true and correct copy of the Proposed
Decision of the Commission which was entered as the Proposed
Decision on MAR 5 1968

Francis M. ...
Merk of the Commission

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).)