

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

IN THE MATTER OF THE CLAIM OF

JOHN CAMPBELL MILLER
MARIE ANASTASIA MILLER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2601

Decision No. CU -6300

Appeal and objections from a Proposed Decision entered August 4, 1971.

Oral Hearing requested and held on September 28, 1971. Testimony by claimant JOHN CAMPBELL MILLER.

FINAL DECISION

By Proposed Decision of August 4, 1971, this claim was denied for the reason that claimants had not established their ownership and the value of the property assertedly taken by the Government of Cuba. Claimants objected to the denial of their claim and submitted evidence in support thereof. At an oral hearing held on September 28, 1971 claimant JOHN CAMPBELL MILLER presented further testimony and supporting evidence.

Based upon the record, including the testimony and additional evidence, the Commission finds that claimants were the owners of real and personal property on the Isle of Pines, Cuba, including a residence, grapefruit packing plant, orchards, 150 head of cattle, and machinery and equipment for the packing plant and orchards. The Commission further finds that a portion of claimants' property was taken by the Government of Cuba on September 20, 1960 and the residence and cattle were taken on October 25, 1961.

The Commission has determined that the value of claimants' interests in the properties which are the subject of this claim and the dates of loss were:

October 25, 1961	Residence and furnishings	\$ 35,000.00
	150 Head of Cattle	<u>15,000.00</u>
		\$ 50,000.00
September 20, 1960	Grapefruit on Trees	\$ 18,000.00
	Grapefruit & Mango Orchards	40,500.00
	Packing House, Garage, Pump House	11,400.00
	Machinery & Equipment	15,565.00
	Automobiles	1,800.00
	Land in Hacienda Santa Rosalia, Miller Addition, and Los Almacios	<u>44,860.00</u>
		\$132,125.00
	Total Losses	\$182,125.00

The Commission concludes that claimants suffered losses in the amount of \$91,062.50 each or a total of \$182,125.00 within the meaning of Title V of the Act as the result of the taking of their property by the Government of Cuba.

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 claim it is so ordered as follows:

<u>Each claimant</u>	
<u>FROM</u>	<u>ON</u>
September 20, 1960	\$66,062.50
October 25, 1961	<u>25,000.00</u>
	\$91,062.50

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

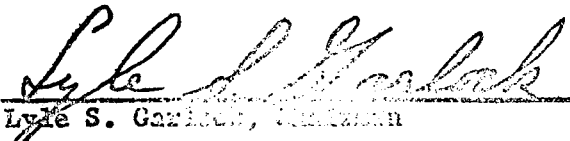
CERTIFICATIONS OF LOSS

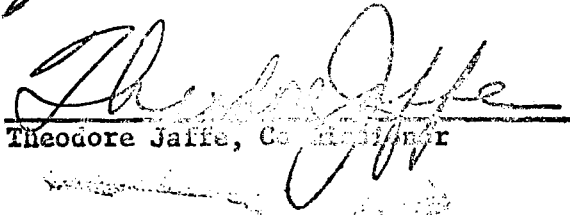
The Commission certifies that JOHN CAMPBELL MILLER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Ninety One Thousand Sixty-Two Dollars and Fifty Cents (\$91,062.50) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that MARIE ANASTASIA 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 Ninety One Thousand Sixty-Two Dollars and Fifty Cents (\$91,062.50) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

OCT 13 1971


Lyle S. Garlick, Chairman


Theodore Jaffe, Co. Chairman

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

IN THE MATTER OF THE CLAIM OF

JOHN CAMPBELL MILLER

MARIE ANASTASIA MILLER

Claim No. CU -2601

Decision No. CU 6300

Under the International Claims Settlement
Act of 1949, as amended

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 \$181,125, was presented by JOHN CAMPBELL MILLER and MARIE ANASTASIA MILLER and is based upon the asserted loss of real and personal property in Cuba. Claimants have been nationals of the United States at all times pertinent to this claim.

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) (1970).)

Claim is described as based on various realties in the Isle of Pines, described by lot number, and including citrus groves, pine timber, and creek, as well as cattle and crops. The property is said to have been acquired by gift and purchase.

By Commission letter of December 12, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act.

On about January 15, 1968 and at times thereafter, claimants were invited to submit any evidence available and were informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record.

The record in this claim includes a listing of lot numbers and an affidavit by one formerly in the real estate business concerning his acquaintance with claimants and general knowledge of their properties, as well as a copy of his opinion as to selling prices in the Isle of Pines.

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There is also a listing of crop and inventory assertedly taken by the Government of Cuba; and a telegram referring to take-over.

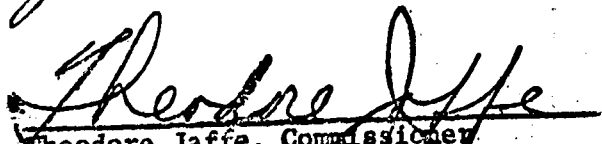
The record, however, does not establish by probative evidence the extent and nature of claimants' properties on the asserted date of loss.

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

AUG 4 1971


Lyle S. Garlock, Chairman


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 (1970).)

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