

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20577

IN THE MATTER OF THE CLAIM OF

JOHN CAMPBELL MILLER  
JAMES WILLIAM MILLER  
MARGARET MILLER SMITH

Claim No. CU-2602  
**Claim No. CU -2603**

**Decision No. CU-6301**

**Under the International Claims Settlement  
Act of 1949, as amended**

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 issued August 4, 1971, these claims were denied because of claimants failure to establish their ownership and the value of property assertedly taken by the Government of Cuba.

Claimants objected to the Proposed Decision of the Commission and requested an oral hearing before the Commission which was held on September 28, 1971. Additional evidence concerning the ownership and value of the property on the Isle of Pines claimed by these claimants was submitted and claimant JOHN CAMPBELL MILLER testified at the oral hearing on the value of the land.

Based upon all the evidence of record, the Commission now finds that the claimants have been nationals of the United States since birth; that they were the owners of 32 blocks of land in the Ortiz Addition in Nueva Gerona, Isle of Pines and 334.20 acres in the Santa Ana and Cuchilla Alta Estates as shown on a map dated July 7, 1909 made by Arthur Donnelly. The Commission further finds that the said lands were taken by the Government of Cuba on December 6, 1961 under Law 989.

The Commission has determined that on the aforesaid date of loss the value of claimants' interests in the land was \$429,250.00 and concludes that each claimant suffered a loss in the amount of \$143,083.33 within the meaning of Title V of the Act as the result of the taking of their land 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.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. 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. (See Claim of Eileen M. Smith, Claim No. CU-3038.)

The Certifications of Loss as stated below will be entered and the remainder of 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 One Hundred Forty-Three Thousand Eighty-Three Dollars and Thirty-Three Cents (\$143,083.33) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement;

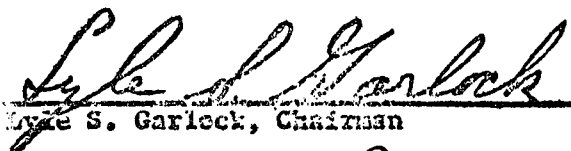
The Commission certifies that JAMES WILLIAM MILLER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Forty-Three Thousand Eighty-Three Dollars and Thirty-Three Cents (\$143,083.33) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

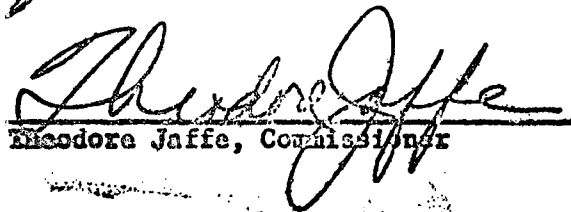
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The Commission certifies that MARGARET MILLER SMITH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Forty-Three Thousand Eighty-Three Dollars and Thirty-Four Cents (\$143,083.34) 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 Final  
Decision of the Commission

OCT 13 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, 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.

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IN THE MATTER OF THE CLAIM OF

JOHN CAMPBELL MILLER  
JAMES WILLIAM MILLER  
MARGARET MILLER SMITH

Claim No. CU -2602  
Claim No. CU-2603

Decision No. CU

8301

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 \$429,250, were presented by JOHN CAMPBELL MILLER, JAMES WILLIAM MILLER, and MARGARET MILLER SMITH and are based upon the asserted loss of real properties in Cuba. It appears that claimants have been nationals of the United States since 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) (1970).)

Claim No. CU-2602 is based on 32 blocks of a subdivision in the Isle of Pines known as Ortiz Addition, said to have been inherited from claimants' father. The record includes a 1955 survey plan which does not reflect the names of owners. Claim No. CU-2603 is based on lots described by lot numbers, said to have been inherited from claimants' parents.

By Commission letter of December 12, 1967, claimants were advised as to the type of evidence proper for submission to establish these claims 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 includes a listing by lot numbers, and the aforementioned survey map, as well as an affidavit by one formerly in the real estate business concerning his acquaintance with the claimants and general knowledge of their properties. There is also a copy of his opinion as to


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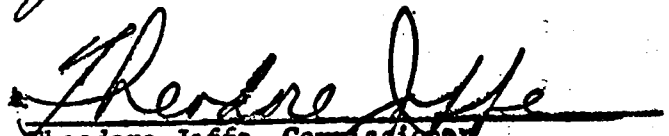
selling prices on the Isle of Pines. The record, however, does not establish by probative evidence the extent and nature of claimants' properties, subject of these claims, on the asserted date of loss.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny these claims and they are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claims.

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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