

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20540

IN THE MATTER OF THE CLAIM OF

OLGA LENGYEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. **CU**-3669

Decision No. **CU** - 6827

Petition to Reopen; Proposed Decision issued April 28, 1972; Final Decision entered after Hearing on the Record.

AMENDED FINAL DECISION

This claim was filed by claimant who amended the amount to \$5,274,663.00. The record having been considered, the Commission issued a Proposed Decision certifying a loss to the claimant in the aggregate amount of \$1,049,903 based on claimant's interests in several apartments, household furnishings and art objects, and other personalty, as well as paintings, jewelry, cash, currency and certain stock interests. Portions of the claim were denied as the record did not substantiate the claim as presented.

Claimant indicated that additional evidence would be forthcoming. However it was not received and after duly considering the record on June 23, 1972 the Commission ordered the entry of a Final Decision affirming the Proposed Decision. Thereafter claimant submitted additional evidence which has been considered in connection with the entire record. This submission is treated as a petition to reopen the matter. As a result, the Commission holds that certain changes are warranted in the decision in this matter, all as discussed below.

Stock Interests in Cuban Corporations

The Proposed Decision found that claimant owned a 1/2 interest in certain shares of Minimax Super-Mercados, S.A., Inversiones Guarina, S.A., Fibraglass Distributors, Inc., Cuban Independent Trading Corporation, and Colon Independent Trading Corporation. This finding of a one-half interest was based on the record which indicated that one-half of the certificates had been delivered to claimant and one-half to her husband.

Evidence of record now discloses that claimant and her husband had entered into a pre-nuptial agreement providing for separate ownership of property, and further according to her former Cuban attorney, claimant then purchased the stock interests of her husband. Accordingly, the Commission now finds that claimant's losses in Minimax, Fibraglass, Cuban Independent and Colon Independent aggregated \$133,840.06.

According to claimant's former attorney, she owned the 250 shares of Sedanita Textile for which a Provisional Certificate was issued in his name. However, the record is devoid of any evidence upon which the Commission could make a finding of value at the time of any loss. Clearly, and the Commission has previously so held, the amount of investment is not representative of the loss as a result of any taking by the Government of Cuba, as many changes may have occurred.

The record discloses that as to Inversiones Guarina, claimant owned 4,725 shares of preferred stock (not 4,727 as stated in the Proposed Decision) and 37 shares of its common stock. Moreover, claimant submitted stock certificates showing that Guarina held 659 shares of preferred stock of Colon Independent. Nevertheless, the record does not disclose how many shares were outstanding in Guarina, nor anything else as to its assets, or liabilities. Accordingly, this item of claim remains denied.

With regard to Inversiones Lenkest, the record shows that claimant owns 1,100 shares of its common stock (at \$1.00 par value) and 400 shares of its preferred stock (at \$100 par value). The newly submitted evidence includes a letter from the Royal Bank of Canada which states that it found no evidence as to the value of this corporation. It has been states that

Lenkest was established with \$1,000,000 capital; and that \$100,000 capital was paid in, but however, the shares claimant recites in her petition total \$101,700 for which no explanation is offered. It appears that \$48,970.58 of the capital had been transferred to New York and distributed to the stockholders. The remainder was in the office of the claimant's former attorney, who states that it was confiscated therefrom. Nevertheless, the record does not disclose with accuracy how many Lenkest shares were outstanding, nor the nature of the preference accorded to holders of preferred stock. Accordingly, this item of claim remains denied.

In her petition, claimant lists to shareholders of Lenkest as Mr. Isidore Lipschutz, Dr. Julius Foldes and his brother, Mr. Julian Holzer and his brother, and herself. Her former attorney has stated that Milton Kestenberg, Esquire was also a shareholder. Although he states that all were United States citizens, this is not established (apart from Milton Kestenberg, Esquire, and claimant). Claimant has petitioned that Mr. Lipschutz, Dr. Foldes and an unidentified brother, Mr. Holzer and an unidentified brother, be joined in the claim based on Lenkest. Dr. Foldes had addressed the Commission in this respect. However, the lack of evidence of United States nationality of these persons is not solely determinative of the matter, inasmuch as the Commission has found it impossible to certify a loss to anyone based on Lenkest stock interests. Accordingly, the petitions on behalf of these persons are denied.

Additional Cash Items

Claimant also states in her petition, and for the first time, that her Cuban attorney held in his safe \$20,000 of cash received from Mr. Kestenberg, \$5,000 received from a Mrs. Ruth Karen, and \$3,000 received from Mr. Louis Zara. These funds it appears were confiscated by the Government of Cuba. Claimant states she repaid \$2,000 to Mrs. Karen. Nevertheless, the United States nationality of Mrs. Karen and Mr. Zara is not shown, nor has Mr. Kestenberg petitioned to join in this matter. Accordingly, petitions presented on behalf of these persons are also denied.

Uncontested items & Amended Claim

Claimant has stated that she has no objection to the following findings in the Proposed Decision:

Apartments 15-B and 15-D	\$ 95,170
Jewelry	375,000
Cash in attorney's office	60,000
Cash in her apartment safe	21,325
Cuban currency	11,750
	<u>\$563,245</u>

However, she requested reconsideration of her stock investment, art objects and paintings. She now seeks \$5,700,223.35 beyond the above \$563,245, an aggregate of \$6,263,468.35.

She restates the contested part of her claim as follows:

Furniture, furnishings, gold car and Chrysler automobile (Apartment 15-B)	\$ 177,264.28
Furnishings and Furniture (Apartment 15-D)	22,609.00
Art objects in both apartments	2,190,200.00
Paintings	3,031,000.00
	<u>\$5,421,073.28</u>
Deduction	30,760.00
	<u>\$5,390,313.28</u>
Loss of furs	11,000.00
	<u>\$5,401,313.28</u>
Stock Interests	281,410.07
Nine options for land	17,500.00
	<u>\$5,700,223.35</u>

The stock interests have been discussed above.

Household Furnishings and Related Items

In its Proposed Decision the Commission had allowed the amount of \$179,738.00 as the value of household furnishings, including objects of art and items not individually evaluated, vehicles and furs. This was comprised as follows:

In Apartment 15-D	\$22,609.00
In Apartment 15-B	140,409.00
Automobile, depreciated	4,760.00
Gold cart, depreciated	960.00
Furs, depreciated	11,000.00

The figures found for the furnishing in the apartments were based on inventories which had been submitted. However, in view of evidence more recently submitted, the Commission will include separate figures for objects of art (as well as paintings) and accordingly appropriate deductions are made from the totals above, so the findings for this item are revised as follows:

In Apartment 15-D	\$20,849.00
In Apartment 15-B	99,715.00

The other items (in this section) remain unchanged and the aggregate figure for household furnishings and the other items above is \$137,284.00.

Paintings

The Proposed Decision contains a detailed discussion of the paintings as their status was then known to the Commission. The record contained a statement from Mr. Joseph Schaefer, official art curator for the Government of France who valued some 22 or 23 paintings (which he acquired for claimant's father) at \$240,000 in 1964. He had been able to recall the details of only 14 of the paintings. Claimant had listed some paintings which she valued at \$2,214,000. Her list increased from 27 or 28 to 30 paintings. Additionally, a Mr. Louis Zara submitted a letter-appraisal of 27 described painting, totalling \$3,031,000. This appraisal was not based on a physical inspection of the paintings, but upon a list furnished by claimant. Such basic matters as authenticity, attribution and quality were not commented upon. Nothing in the record concerned any qualifications of Mr. Zara as an art expert or appraiser, although information on this point had been suggested. Additionally, some 1958 insurance inventories (for insurance which was not issued) were considered. The Commission relied on the appraisal by Mr. Schaefer and found the aggregate value of the paintings as \$240,000.

However, after the entry of the Final Decision, claimant has submitted further evidence to the Commission. This includes copies of two letters by Mr. Joseph Schaefer, on an official letterhead, both dated March 19, 1964. The first of these, addressed to "Dear Colleague" who is, in a second communication, identified as Mr. Zara) refers to having sent to the claimant 38 paintings, as well as objects of art, which she wished him to evaluate. This letter sets out that for reasons of health Mr. Schaefer could not undertake this project but that since Mrs. Lengyel's claim represents a very great value, the values (in his opinion) should be established in America; he referred to her properties as Museum pieces; and states that he suggested she turn to Mr. Zara for assistance; further,

Mr. Schaefer addressed Mr. Zara as the person who could give proper evaluations. In the second letter of Mr. Schaefer, to another person, he stated he hoped Mr. Zara would have time to do the evaluation since "I trust completely his opinion." The record does not clearly establish why this important information was not accorded the Commission at the outset of the development of this claim.

Another document newly received by the Commission is a photocopy of a document on Mr. Schaefer's letterhead, listing and describing the art objects (discussed separately below) and the 38 paintings. The additional paintings on this list include some by Van Gogh (two) Picasso, Monet, Vlaminck, Brueghel (the younger), Holbeins, a Renoir, Daumier and Utrillo. This document sets out on the final pages that the items were sent from a Galerie in France, signed by Mr. Schaefer; that they were received by Mrs. Lengyel (with signature), witnessed by her former Cuban attorney on February 19, 1958; and further sets out that the art objects were identified and authenticated by Mr. Louis Zara. This document may hereafter be referred to as the inventory-receipt.

The Commission has now re-examined the record with regard to the paintings taken from claimant by the Government of Cuba, and also notes that in one of the letters by Mr. Schaefer he regards his earlier evaluation as an understatement, referring to values otherwise established by his research department. Claimant has stated in her petition that she would accept Mr. Zara's evaluation of \$3,031,00 for the 38 paintings now identified. It is noted that while Mr. Schaefer refers to his undervaluation, Mr. Zara's figures on the average are over ten times Mr. Schaefer's figure. The Commission is not convinced that this is entirely substantiated. However, after careful consideration and comparison of Mr. Zara's figures with Mr. Schaefer's the Commission finds that an appropriate value for the 38 paintings is \$2,340,344, and holds that claimant suffered a loss in this amount for the paintings taken by the Government of Cuba.

Objects of Art

As indicated above, the Commission previously included the value of art objects in its original findings for household furnishings (from which

appropriate deductions have now been made). This was so even though Mr. Zara had, on November 19, 1971, submitted to the Commission an appraisal of 198 objects (in both apartments) giving a "Total gallery price realized - \$4,343,976" and "Total appraiser's estimate - \$2,190,200." In his covering letter (with no letterhead) Mr. Zara described the items as extraordinary, and stating that the research consumed hundreds of hours. He also stated the figures were adjusted to 1960 levels. Although examined by the Commission, it was not relied upon inasmuch as claimant had consistently neglected to establish Mr. Zara's qualifications to appraise art objects. However, as stated under the preceding section, evidence recently submitted to the Commission, includes the letters from Mr. Schaefer, a very respected art expert, who has unqualifiedly set out his opinion of Mr. Zara's expertise.

The inventory-receipt, of February 19, 1958, referred to in the preceding section, lists and describes 198 objects of art. This has been compared with the appraisal submitted by Mr. Zara in November, 1971, and found to consist of the same items. Clearly, the inventory-receipt was available to claimant at that time, but was not submitted to the Commission then.

Although the Commission is not convinced of the total evaluation set out by Mr. Zara, consideration of the entire record, and upon consideration of the entire record, and in comparison with the evaluation of the paintings, the Commission finds that the value of the objects of art taken by the Government of Cuba was \$1,691,053.42, and holds that claimant suffered a loss in this amount when this property was taken by the Government of Cuba.

Land Options

In her petition, claimant states that in 1958 she bought nine options for land described as excellent locations for shopping centers, for \$17,500. The documents regarding these purchases as well as other documents, she states, were in the safe of her former Cuban attorney and were confiscated therefrom. However, claimant had also indicated that Inversiones Lenkest, S.A. owned the nine options to purchase land according to her statement of August 6, 1971. Further evidence submitted on this point included

Recapitulation

Claimant's losses are restated as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Apartments 15-D and 15-B	October 14, 1960	\$ 95,170.00
Household furnishings:		
Apartment 15-B	October 14, 1960	99,715.00
Apartment 15-D	October 14, 1960	20,849.00
Automobile	October 14, 1960	4,760.00
Golf car	October 14, 1960	960.00
Furs	October 14, 1960	11,000.00
Paintings	October 14, 1960	2,340,344.00
Art objects	October 14, 1960	1,691,053.42
Jewelry	September 15, 1960	375,000.00
Cash in attorney's office	September 15, 1960	60,000.00
Cash in apartment safe	October 14, 1960	21,325.00
Cuban currency	August 4, 1961	11,750.00
Stock Interests:		
Minimax	\$28,625.68	
Fibra, common	466.76	
Fibra, preferred	2,724.00	
Cuban, common	4,886.08	
Cuban, preferred	10,000.00	
Colon, common	1,115.54	
Colon, preferred	<u>86,022.00</u>	
	September 1, 1960	<u>133,840.06</u>
		\$4,865,766.48

The Commission affirms its holding that interest should be included in a Certification of Loss at the rate of 6% per annum from the dates of loss to the date of settlement, and it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
September 1, 1960	133,840.06
September 15, 1960	435,000.00
October 14, 1960	4,285,176.42
August 4, 1961	<u>11,750.00</u>
	\$4,865,766.48

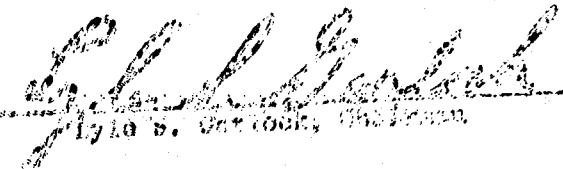
Accordingly, the Certification of Loss in the Proposed Decision, which was affirmed in the Final Decision, is set aside, the following Certification of Loss will be entered, and in all other respects the Proposed Decision, as modified above, is affirmed.

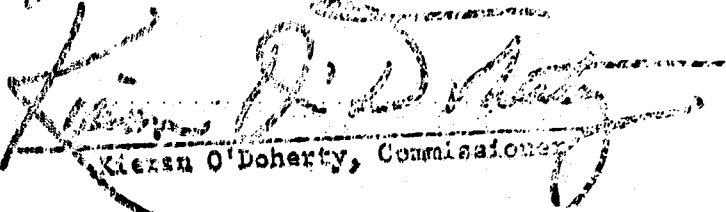
CERTIFICATION OF LOSS

The Commission certifies that OLGA LENGYEL 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 Four Million Eight Hundred Sixty-five Thousand Seven Hundred Sixty-six Dollars and Forty-eight Cents (\$4, 865,766.48) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

JUL 6 1972


Olga Lengyel, Claimant


Kiernan O'Doherty, Commissioner

CU-3669

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

IN THE MATTER OF THE CLAIM OF

OLGA LENGYEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. **CU**-3669

Decision No. **CU**-6827

Appeal and objections from a Proposed Decision entered on April 28, 1972; no oral hearing requested.

Hearing on the record held on June 23, 1972.

FINAL DECISION

This claim was filed in the amended amount of \$5,274,663.00. Under date of April 28, 1972, the Commission issued its Proposed Decision certifying a loss to the claimant in the aggregate amount of \$1,049,903.03, based on claimant's interests in several apartments, household furnishings, paintings, jewelry, cash, currency and certain stock interests.

The Commission found the evidence insufficient to support the assertions as to the total number and identities of the paintings claimed, or their values on the dates of loss. Similarly, the claim for objects of art was not supported by evidence which the Commission found warranted the asserted values.

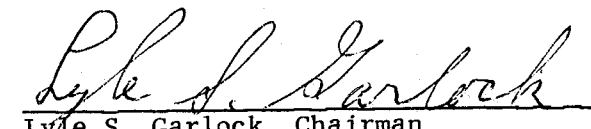
Claimant states that she has not made her claim clear and indicated that additional evidence would be submitted. Thereafter she addressed the Commission indicating that additional time would be required.

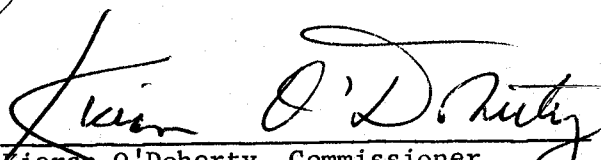
Full consideration has been given to the objections of the claimant, and the record having been examined, and the time having been extended so far as possible, and no further evidence having been received, it is

ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

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

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

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

IN THE MATTER OF THE CLAIM OF

OLGA LENGYEL

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3669

Decision No. CU -6827

Counsel for claimant:

Milton Kestenberg, Esq.

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 amended amount of \$5,274,663.00, was presented by OLGA LENGYEL, based upon the asserted loss of certain real and personal property in Cuba, and stock interests in Cuban enterprises. Claimant has been a national of the United States since naturalization in 1951.

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

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.

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).)

Claimant asserts the following losses:

1. Two penthouse apartments in Vedado	\$ 108,170.00
2. Household furnishings, including objects of art	2,353,318.00
3. Automobile, golf car and furs	19,000.00
4. Paintings	2,214,000.00
5. Jewelry and platinum box taken from attorney's office	375,000.00
6. Cash also taken from attorney's office	60,000.00
7. Cash in safe in apartment	21,325.00
8. Cuban currency	11,750.00
9. Stock interests in Cuban corporations	<u>112,100.00</u>
Total	<u>\$5,274,663.00</u>

On the basis of the evidence of record the Commission finds that claimant owned certain items subject of this claim as further discussed below.

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.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation

of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Penthouse Apartments

Based upon the evidence of record including copies of the deeds to the two apartments, affidavits of claimant, a pre-nuptial agreement and other documents, the Commission finds that claimant was the sole owner of two apartments, known as Apartments 15-B and 15-D located at 201 Primera Avenida in Vedado, Havana.

Claimant's Cuban attorney states that claimant and her husband fled Cuba in September 1960.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that claimant's apartments in Vedado were taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission further finds that the contents of the two apartments were taken at the same time.

The aforementioned deeds reflect that claimant purchased Apartment 15-B on March 4, 1958 for \$38,000 subject to a \$16,000 mortgage, and Apartment 15-D on December 18, 1958 for \$25,000. The record also reflects that after their purchase claimant made extensive alterations and improvements to both apartments with the result that the total cost of Apartments 15-B and 15-D including legal fees and taxes was \$66,870 and \$41,800, respectively.

Based on the entire record the Commission finds that the value of Apartments 15-B and 15-D including improvements on the date of loss was \$66,870 and \$41,800 and that claimant had reduced the mortgage on Apartment 15-B to \$13,500. After deduction of the mortgage, the Commission finds that claimant suffered a total loss of \$95,170 as the result of the taking by the Government of Cuba of these two apartments.

Household Furnishings, Appliances, Objects of Art,
Automobile and Miscellaneous Items

The record includes detailed listings of the furniture, furnishings, appliances, as well as a 1958 Chrysler Saratoga, golf car, cameras, objects of art, and other miscellaneous items in the two apartments, with their estimated values. There are also affidavits of two officials of the British Commonwealth Insurance Company who had appraised the personalty in Apartment 15-B in 1958; a statement by the president of the American International Insurance Company who stated that he had appraised the personalty in both Apartment 15-B and 15-D, a letter from a former occupant of both apartments, subsequent to claimant's departure, and claimant's affidavit.

Under date of November 28, 1971, claimant submitted an appraisal of the above items of personal property, which are considered art objects, made by Mr. Louis Zara and prepared on the basis of information supplied by claimant. Mr. Zara states that he researched the sales prices of similar art objects, which he listed under the column "Gallery Price Realized", and set forth his opinion under the column "Appraiser's Estimate For 1960". The asserted sales prices are shown as aggregating \$4,342,976.00 and Mr. Zara's estimate is \$2,190,200.00.

Based on the entire record, the Commission finds that claimant owned the said items of personal property situated in the two apartments, as well as the automobile, golf equipment, and furs; and that the values thereof on October 14, 1960, the date of loss, were as follows:

Furnishings of Apartment 15-D, including items not individually evaluated	\$ 22,609.00
Furnishings of Apartment 15-B, including items not individually evaluated	140,409.00
Automobile and golf equipment, depreciated	5,720.00
Furs, depreciated	<u>11,000.00</u>
Total	<u>\$179,738.00</u>

Paintings

The portion of the claim for paintings is set forth in claimant's affidavit of May 29, 1967 which accompanied her official claim form. Therein she stated that the paintings had cost \$240,000.00 in 1938, but that their aggregate value in 1960 was about 50% higher. In support thereof, claimant submitted a copy of an appraisal of February 15, 1964 from Joseph Schaefer, an official art curator for the French Government. Mr. Schaefer states that claimant's father, Ferdinand Bernard, had commissioned him to find some exceptional rare paintings; and that in 1938 he acquired for Mr. Bernard about 22-23 paintings each within the price range of 38,000 to 65,000 French francs. His best recollection is that the aggregate amount Mr. Bernard paid for all of the paintings was between 900,000 and 1,000,000 French francs. Mr. Schaefer was able to recall the details of only 14 of the paintings which he described as follows:

1. Fragonard - Landscape with Staffage
2. G. Bellini - The Holy Family
3. Gerard Terborch - Portrait of a Lady
4. Salomon Van Ruysdael - River Landscape
5. Adriaen Brouwer - Peasant-Interior
6. H. Avercamp - Snow-Landscape
7. Meindert Hobbema - Paysage with Mill
8. Jan van Goyen - Sea Landscape
9. Jan Gossaert - Madonna with Angels
10. Quentyn Massys - Portrait of a Senator
11. Joachim Patinir - Paysage
12. Hans Memling - Angel in Paysage
13. Ed. Manet - Portrait of a Painter
14. Maurice Utrillo - View of Montmartre

In the opinion of this very respectable art expert, the 22-23 paintings "today" (i.e., February 15, 1964) had a value of \$240,000.00.

At this point it is noted that in 1938 the average value of a French franc was \$0.028781 (International Financial Statistics, International Monetary Fund). Therefore, the aggregate price paid for all of the paintings in 1938 was approximately \$26,000.00 to \$28,750.00. On the basis of Mr. Schaefer's appraisal, the aggregate value of all the paintings had increased about 9 times their original cost between 1938 and 1954.

The record includes a detailed inventory of claimant's personal properties in Cuba, including the paintings. It is asserted that this inventory was prepared by an insurance appraiser in Cuba for the purpose of an insurance policy; and that the valuations were made low in order to induce claimant to apply for insurance coverage for her personal properties. Under date of August 30, 1971, claimant submitted her detailed affidavit of August 28, 1971 by which she amended her claim for the paintings by increasing the amount to \$2,214,000.00. As a preface to that amendment, claimant states that her new valuations are based upon information she obtained from experts. Claimant's list now includes 30 paintings asserted to have been taken by the Government of Cuba.

The evidence also includes a letter of August 31, 1971 from Mr. Louis Zara, setting forth, inter alia, his appraisal of the paintings. It appears that Mr. Zara was Editor-in-Chief of a publication known as "Masterpieces" from 1950 to 1951, and a copy of Volume I, published in 1950, has been submitted by claimant. In that publication Louis Zara is shown as Editor-in-Chief, and Herman R. Bollin is indicated as Art Director. Beyond this, no further information is included in the record concerning Mr. Zara's qualifications as an art expert or appraiser. Moreover, it is noted that Mr. Zara's appraisal was not based upon a physical inspection of the paintings, but rather upon a list furnished by claimant.

Mr. Zara begins by attempting to explain away Mr. Schaefer's appraisal, to whom he refers as "the renowned French expert", and it does not appear that he ever spoke with Mr. Schaefer. He states in part as follows:

It would be presumptuous to attempt to revise the estimate Dr. Schaefer gave except for the fact that on the aforementioned date he was a public official, no longer engaged personally in the art market, and was

merely, in giving his statement, carrying out a feeling of obligation to his long deceased client. Furthermore . . . he was, with all good will, providing a perfunctory service

After citing examples of certain purchases of paintings made by the Mellon Trust, Mr. Zara then estimates the values of 27 paintings as follows:

1.	DEGAS	"Dancing Figure"	\$ 100,000
2.	DEGAS	"Bending Dancer"	40,000
3.	VAN DYCK	"Portrait of the Marchesa"	200,000
4.	DAUMIER	unnamed	75,000
5.	TOULOUSE-LAUTREC	unnamed	150,000
6.	FRANS HALS	"Portrait of a Girl"	180,000
7.	DUFY	"At the Horse Races"	75,000
8.	PICASSO	"Fruits in Bowl"	150,000
9.	VAN GOGH	"Man in Garden"	200,000
10.	DAUMIER	"Parisien Scene"	50,000
11.	BRAQUE	"Still Life"	125,000
12.	CEZANNE	"Still Life"	150,000
13.	GOYA	"Three Noblemen"	250,000
14.	FRAGONARD	"Landscape with Staffage"	200,000
15.	BELLINI	"Holy Family"	100,000
16.	TERBORCH	"Portrait of a Lady"	100,000
17.	RUYSDAEL	"River Landscape"	65,000
18.	BROUWER	"Peasant Interior"	40,000
19.	VAN AVERCAMP	I have no opinion here & leave estimate at	45,000
20.	HOBBEEMA	"Paysage With Mill"	150,000
21.	VAN GOYEN	No special opinion here and leave estimate at	50,000
22.	MASSYS	"Portrait of a Senator"	80,000
23.	PATINIR	No opinion; leave estimate at	36,000
24.	MEMLING	"Angel in Paysage"	100,000
25.	GOSSAERT	"Madonna with Angels"	35,000
26.	MANET	"Portrait of a Painter" - leave estimate at	200,000
27.	UTRILLO	"View of Montmartre - leave estimate at	85,000
		Estimate total value of above	\$3,031,000

The following listing includes claimant's amended valuations, using numbers keyed to those employed by Mr. Zara, shown above, except where otherwise indicated, along with appropriate remarks in parenthesis:

1.	(The insurance inventory value for this one is \$800.00.)	\$ 80,000.00
2.	(The insurance inventory lists this one as "Painting", artist not shown, valued at \$120.00.)	25,000.00
3.	(The insurance inventory lists this one as "Antique Painting: woman figure by Anthony Van Dyck, valued at \$7,000.00.)	150,000.00
4.	(The insurance inventory lists this one as "Long painting modern", artist not shown, valued at \$100.00.)	50,000.00

- (These two are not included in Mr. Zara's list. The insurance inventory lists them as "2 Paintings: Hunter", valued at \$500.00.) \$ 20,000.00
5. (The insurance inventory lists this one as "Woman's figure with lamp above" by Henri de Toulouse, valued at \$3,000.00.) 125,000.00
6. (Claimant states that this one was placed in a space made especially for it between the shelves of the floor-to-ceiling, wall-to-wall bookshelves. In her affidavit of November 30, 1971, claimant states that this is one of the "3 Pictures" appearing in the insurance inventory as \$120.00. Artist is not shown.) 120,000.00
7. (The insurance inventory lists this one as "Painting: Horse race by Raul Dufey Epsom", valued at \$6,000.00.) 60,000.00
8. (The insurance inventory lists this one as "Painting" by Picasso, valued at \$6,000.00.) 130,000.00
9. (In her affidavit of November 30, 1971, claimant states this is one of "3 Pictures" appearing in the insurance inventory as \$120.00, artist not shown.) 100,000.00
10. (The insurance inventory lists this one as "Parisian scene", valued at \$250.00, artist not shown.) 30,000.00
11. (The insurance inventory lists this one as "Large painting, ultra modern", valued at \$230.00, artist not shown.) 80,000.00
12. (The insurance inventory lists this one as "Large painting, still life", valued at \$260.00, artist not shown.) 100,000.00
13. (The insurance inventory lists this one as "Painting-three figures with lamp above", valued at \$5,000.00.) 150,000.00
- (The following 14 paintings are those appraised by Mr. Schaefer.)
14. 120,000.00
15. 70,000.00
16. 75,000.00
- (The above items - 14, 15 and 16 - are not included in the insurance inventory.)
17. (The insurance inventory lists this one as "Painting, Sea scene", valued at \$120.00.) 45,000.00

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|-----|---|--------------|
| 18. | (In her affidavit of November 30, 1971, claimant states this is one of "3 Pictures" appearing in the insurance inventory as \$120.00. Artist is not shown.) | \$ 30,000.00 |
| 19. | (This one is not included in the insurance inventory.) | 45,000.00 |
| 20. | (The insurance inventory lists this one as "Large painting", valued at \$280.00, artist not shown.) | 100,000.00 |
| 21. | | 50,000.00 |
| 22. | | 50,000.00 |
| 23. | | 36,000.00 |
| 24. | | 85,000.00 |
| 25. | | 3,000.00 |

(The above items - 21 through 25 - are not included in the insurance inventory.)

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|-----|--|-----------------------|
| 26. | (The insurance inventory lists this one as "Modern painting", valued at \$150.00, artist not shown.) | 200,000.00 |
| 27. | (The insurance inventory lists this one as "Painting by Damon", value not indicated. In her affidavit of November 30, 1971, claimant states that "It is actually a painting by Daumier. The insurance appraiser made an error.") | <u>85,000.00</u> |
| | | <u>\$2,214,000.00</u> |

On the basis of the entire record, the Commission finds the evidence insufficient to support claimant's assertions either as to the number and identities of the paintings or as to the values thereof on the date of loss. The Commission finds that the valuation most appropriate to the property and equitable to the claimant is the appraisal made by Mr. Schaefer, an art expert who had selected them for purchase by claimant's father, and whose opinion was given ante litam motam. Accordingly, the Commission finds that the aggregate value of the paintings on October 14, 1960, the date of loss, was \$240,000.00.

Jewelry

The record includes an affidavit by claimant's Cuban attorney who states that he represented her from 1955 until he left Cuba on October 25, 1960. He states that the jewels which claimant's father had owned were received from France toward the end of 1956 and he at that time checked them against the inventory and then arranged to place them in a safe deposit box of claimant.

At claimant's request he states that he sold about one-half to a manager of a jewelry store in Havana for \$352,000.00. He also enclosed a list of the jewelry and platinum jewelry box which had been shipped from France, with their appraised value and noted the items that were sold. The aggregate value of the original list is shown as \$691,000.00, and the total value of the items indicated on this list as sold is \$316,000.00.

The record also includes an appraisal of the jewelry made in Paris in January, 1951 at claimant's request, a list of what appears to be the same jewelry as shipped exclusive of the platinum jewelry box, and copies of correspondence related thereto. The appraised total is shown as 215,300 pound sterling and in a letter to claimant dated January 27, 1964 the appraiser states that they are worth twice the price they were worth in 1950.

In addition there is in the record the aforementioned affidavits of claimant and of the French citizen who shipped the paintings and jewelry to Cuba. This latter affidavit includes a list of the jewelry. In claimant's affidavit of May 29, 1967 she states that she had left the jewelry subject of this claim with her Cuban attorney at the airport when she was leaving Cuba because she was advised that she would be physically searched and that these valuables would be confiscated.

In the aforementioned affidavit of claimant's Cuban attorney he states that Cuban officials opened the safe in his office about 2 weeks after claimant left Cuba in September 1960, and seized claimant's jewels worth \$300,000.00, her \$60,000.00 in cash, and stocks, documents and cash which his clients left in his custody. Thereafter he says he went into hiding with his family and escaped by plane on October 25, 1960.

Based on the entire record the Commission finds that claimant owned the jewelry subject of this claim, that it was taken by the Government of Cuba on September 15, 1960, and that its aggregate value including the platinum jewelry case was \$375,000.00.

Cash left with Attorney

Claimant in her affidavit states that she left \$40,000.00 with her Cuban attorney and an additional \$20,000.00 in cash to be made available to her old

housekeeper and her husband for maintenance and taxes on the apartment. She therefore asserts a claim in the amount of \$60,000.00 for this loss. The aforementioned affidavit of her Cuban attorney states that when claimant left Cuba she gave him in trust for safekeeping \$40,000.00 in United States currency and an additional \$20,000.00 to meet payments required on her apartments and for other purposes designated by her, as well as the jewelry referred to above.

Based on all the evidence of record the Commission finds that claimant owned \$60,000.00 in cash left in custody with her Cuban attorney and that it was taken by the Government of Cuba on September 15, 1960 at the same time as the jewelry was taken.

Cash in Safe in Apartment

Claimant asserts the loss of \$21,325.00 in United States currency which she had placed in her apartment safe. In support claimant has submitted a letter from an individual who states that she was in the apartment in the evening before claimant's departure and that among other things she saw claimant leave about \$21,500.00 in United States currency in claimant's safe.

Based on the evidence of record the Commission finds that claimant suffered a loss of \$21,325.00 in United States currency which was taken from her safe on October 14, 1960 the date on which the Government of Cuba took her apartments.

Cuban Currency

A portion of this claim is based on the loss of 11,750 Cuban pesos which claimant has submitted. Claimant left Cuba in September 1960, and the currency was brought to her shortly thereafter. Subsequently, on August 4, 1961 there was published in the Cuban Official Gazette, Law 963 which ordered a currency exchange to be carried out on August 6 and 7, 1961. The law provided that after August 7, 1961, old currency was to be null and of no value. Article XI of Law 963 declared that all currency which, at the time of promulgation, was outside the territory under the jurisdiction of the Cuban State, was null and of no legal force. Accordingly, the Commission holds that claimant's Cuban peso notes became automatically null and of no legal effect

on August 4, 1961, the date of the promulgation of Law 963 (see Claim of Betty G. Boyle, Claim No. CU-3473, 1968 FCSC Ann. Rep. 81).

In view of the foregoing the Commission finds that claimant suffered a loss of \$11,750.00 (the peso being on a par with the United States dollar) on August 4, 1961 based on this portion of her claim.

Stock Interests in Cuban Corporations

Based on the entire record including stock certificates in the Cuban corporations concerned, the Commission finds that, pursuant to the Community Property Law of Cuba, claimant owned a 1/2 interest in 28,560 shares of Minimax Super-Mercados, S.A. (Minimax); 37 shares of common and 4,727 shares of preferred stock of Inversiones Guarina, S.A. (Guarina); 85 shares of common and 2,724 shares of preferred stock of Fibraglass Distributors, Inc. (Fibra); 8,137 shares of common and 100 shares of preferred stock of Cuban Independent Trading Corp. (Cuban); and 276 shares of common and 729 shares of preferred stock of Colon Independent Trading Corp. (Colon).

In our decisions entitled Claim of Libby Holman Reynolds (Claim No. CU-1384); Claim of Helen Brandon and Claudia Muriel Deske (Claim No. CU-2175); Claim of Benjamin Kovner (Claim No. CU-1015); and Claim of Jack Clareman and Benet Polikoff, Executors of the Estate of Montgomery Clift, Deceased (Claim No. CU-1385), which we incorporate herein by reference, we held that these companies were intervened or otherwise taken by the Government of Cuba on September 1, 1960; 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 methods used in determining the value of Minimax stock as \$1.0023 per share; the value of Fibra common stock as \$5.4913 per share and preferred as \$1.00 per share; the value of Cuban common as \$.600476 per share and Cuban preferred as \$100.00 per share; and the value of Colon common as \$4.0418 per share and preferred as \$118.00 per share.

On the basis of evidence of record in the instant case, it is found that claimant came within the terms of the Reynolds, Brandon, Kovner, and Clift

decisions, and that she suffered a loss in the aggregate amount of \$66,920.03 for the above-described stock interests within the meaning of Title V of the Act.

With regard to the portion of this claim based on the ownership of a stock interest in Guarina, the record contains no evidence regarding its nationalization or other taking and no balance sheet or other financial statements from which the value of Guarina can be ascertained. Moreover, counsel states claimant is unable to secure any financial statements. Accordingly, the Commission is constrained to and does deny this portion of the claim for lack of proof.

Claimant also claims the loss of a stock interest in Sedanita Textil, S.A. (Sedanita) and in Inversiones Lenkest S.A. (Lenkest). In regard to Sedanita she submitted a certificate in the name of her Cuban attorney and has not explained her interest therein. In regard to Lenkest the record discloses that it was formed to purchase real property in Cuba and to develop it for shopping centers. There is also of record a letter dated June 23, 1959 to its stockholders in which it is stated that the total assets of the corporation consisted of a bank deposit in the Royal Bank of Canada in the amount of \$100,000.00, that \$48,970.58 of this sum had been transferred to the bank's New York branch, that this sum was being distributed by check to the shareholders proportionately, and that the remaining funds (\$51,029.42) could not be transferred from Cuba under present Cuban laws.

Claimant states that at the time of the Cuban Government confiscation Lenkest owned 9 options to purchase land in areas in Havana where Minimax had contracted to purchase land to build stores. In the claim form claimant states that she owned 40 shares of Lenkest but the record contains no share certificates or evidence of the number of shares outstanding. In view of the foregoing the portion of the claim based on the loss of a stock interest in Sedanita and in Lenkest is denied for lack of proof.

Recapitulation

Claimant's losses are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Apartments	October 14, 1960	\$ 95,170.00
Household furnishings, etc.	October 14, 1960	179,738.00
Paintings	October 14, 1960	240,000.00
Jewelry	September 15, 1960	375,000.00
Cash taken from attorney's office	September 15, 1960	60,000.00
Cash in apartment safe	October 14, 1960	21,325.00
Cuban currency	August 4, 1961	11,750.00
Stock interests	September 1, 1960	<u>66,920.03</u>
	Total	<u>\$1,049,903.03</u>

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>FROM</u>	<u>ON</u>
September 1, 1960	\$ 66,920.03
September 15, 1960	435,000.00
October 14, 1960	536,233.00
August 4, 1961	<u>11,750.00</u>
	<u>\$1,049,903.03</u>

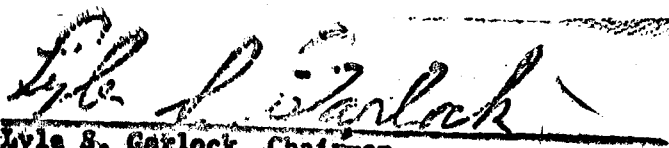
CERTIFICATION OF LOSS

The Commission certifies that OLGA LENGYEL 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 Million Forty-nine Thousand Nine Hundred Three Dollars and Three Cents (\$1,049,903.03) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

8 APR 1972

BY ORDER OF THE COMMISSION


Lyle S. Garlock, Chairman

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 claimant establishes 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.

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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