

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

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In the Matter of the Claim of

5 U.S.C. §552(b)(6)

5 U.S.C. §552(p)(6)

Against the Republic of Iraq

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Claim No. IRQ-II-085

Decision No. IRQ-II-184

Counsel for Claimant:

Daniel Wolf, Esq.  
Law Office of Daniel Wolf

PROPOSED DECISION

Claimant Estate brings this claim against the Republic of Iraq (“Iraq”) alleging that Iraq held the decedent, Wayne Lee McCormick, hostage in violation of international law from August through December 1990. Because the Estate has established that Iraq held Mr. McCormick hostage for 130 days, it is entitled to an award of \$800,000.

**BACKGROUND AND BASIS OF THE PRESENT CLAIM**

Claimant Estate alleges that Mr. McCormick was living in Kuwait when Iraq invaded the country on August 2, 1990. It asserts that, beginning with the invasion and for approximately four months thereafter, Mr. McCormick was confined to an apartment complex in Kuwait City. During this time, he witnessed “atrocities” being committed by Iraqi soldiers, including the hanging and shooting of civilians, and remained in hiding for fear that he would be executed or taken and used as a human shield. Claimant Estate alleges

that, during this entire period, the Iraqi government in effect forcibly prevented Mr. McCormick (and other U.S. nationals) from leaving Kuwait and/or Iraq and did so with the express purpose of compelling the United States government to acquiesce to certain Iraqi government demands. After the Iraqi government authorized all foreign nationals remaining in Kuwait and Iraq to leave, Mr. McCormick flew from Kuwait (via Baghdad, Iraq) to Frankfurt, Germany, on December 9, 1990. Mr. McCormick died in May 2004.

Although neither Mr. McCormick nor Claimant Estate was among them, many of the U.S. nationals in Iraq and Kuwait at the time of the 1990-91 Iraqi occupation of Kuwait sued Iraq (and others) in federal court for, among other things, hostage-taking.<sup>1</sup> Those cases were pending when, in September 2010, the United States and Iraq concluded an *en bloc* (lump-sum) settlement agreement.<sup>2</sup> The Agreement, which entered into force in May 2011, covered a number of personal injury claims of U.S. nationals arising from acts of the former Iraqi regime occurring prior to October 7, 2004, including claims of personal injury caused by hostage-taking.<sup>3</sup> Exercising its authority to distribute money from the settlement funds, the U.S. Department of State provided compensation to numerous individuals whose claims were covered by the Agreement, including some whom Iraq had allegedly taken hostage or unlawfully detained following Iraq's 1990 invasion of Kuwait.

Under the International Claims Settlement Act of 1949 ("ICSA"), the Secretary of State has statutory authority to refer "a category of claims against a foreign government" to this Commission.<sup>4</sup> The Secretary has delegated that authority to the State Department's

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<sup>1</sup> See, e.g., *Hill v. Republic of Iraq*, 175 F. Supp. 2d 36 (D.D.C. 2001); *Vine v. Republic of Iraq*, 459 F. Supp. 2d 10 (D.D.C. 2006).

<sup>2</sup> See *Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq*, Sept. 2, 2010, T.I.A.S. No. 11-522 ("Claims Settlement Agreement" or "Agreement").

<sup>3</sup> See *id.* Art. III(1)(a)(ii).

<sup>4</sup> See 22 U.S.C. § 1623(a)(1)(C) (2012).

Legal Adviser, who, by letter dated October 7, 2014, referred three categories of claims to this Commission for adjudication and certification.<sup>5</sup> This was the State Department's second referral of claims to the Commission under the Claims Settlement Agreement, the first having been by letter dated November 14, 2012 ("2012 Referral" or "November 2012 Referral").<sup>6</sup>

One category of claims from the 2014 Referral is applicable here. That category, known as Category A, consists of

claims by U.S. nationals for hostage-taking<sup>1</sup> by Iraq<sup>2</sup> in violation of international law prior to October 7, 2004, provided that the claimant was not a plaintiff in pending litigation against Iraq for hostage taking<sup>3</sup> at the time of the entry into force of the Claims Settlement Agreement and has not received compensation under the Claims Settlement Agreement from the U.S. Department of State. . . .

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<sup>1</sup> For purposes of this referral, hostage-taking would include unlawful detention by Iraq that resulted in an inability to leave Iraq or Kuwait after Iraq invaded Kuwait on August 2, 1990.

<sup>2</sup> For purposes of this referral, "Iraq" shall mean the Republic of Iraq, the Government of the Republic of Iraq, any agency or instrumentality of the Republic of Iraq, and any official, employee or agent of the Republic of Iraq acting within the scope of his or her office, employment or agency.

<sup>3</sup> For purposes of this category, pending litigation against Iraq for hostage taking refers to the following matters: *Acree v. Iraq*, D.D.C. 02-cv-00632 and 06-cv-00723, *Hill v. Iraq*,

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<sup>5</sup> See *Letter dated October 7, 2014, from the Honorable Mary E. McLeod, Acting Legal Adviser, Department of State, to the Honorable Anuj C. Desai and Sylvia M. Becker, Foreign Claims Settlement Commission* ("2014 Referral" or "October 2014 Referral").

<sup>6</sup> Although the November 2012 Referral involved claims of U.S. nationals who were held hostage or unlawfully detained by Iraq, it did not involve hostage-taking claims *per se*. Rather, it consisted of certain claimants who had *already received* compensation under the Claims Settlement Agreement from the State Department for their hostage-taking claims, and it authorized the Commission to award additional compensation to those claimants, provided they could show, among other things, that they suffered a "serious personal injury" during their detention. The 2012 Referral expressly noted that the "payment already received by the claimant under the Claims Settlement Agreement compensated the claimant for his or her experience for the entire duration of the period in which the claimant was held hostage or was subject to unlawful detention and encompassed physical, mental, and emotional injuries generally associated with such captivity or detention." *Letter dated November 14, 2012, from the Honorable Harold Hongju Koh, Legal Adviser, Department of State, to the Honorable Timothy J. Feighery, Chairman, Foreign Claims Settlement Commission*, at ¶3 n.3.

D.D.C. 99-cv-03346, *Vine v. Iraq*, D.D.C. 01-cv-02674; *Seyam (Islamic Society of Wichita) v. Iraq*, D.D.C. 03-cv-00888; *Simon v. Iraq*, D.D.C. 03-cv-00691.

2014 Referral at ¶ 3.

On October 23, 2014, the Commission published notice in the *Federal Register* announcing the commencement of the second Iraq Claims Program pursuant to the ICSA and the 2014 Referral.<sup>7</sup>

On September 9, 2015, the Commission received from Claimant Estate a completed Statement of Claim seeking compensation under Category A of the 2014 Referral, together with exhibits supporting the elements of its claim.

## DISCUSSION

### Standing

As an initial matter, the Commission has reviewed the letters of office, issued on June 16, 2004, by the Circuit Court of the Eleventh Judicial Circuit, McLean County, Illinois, appointing Brian J. McDonald and Susan Lee McDonald co-executors of Mr. McCormick's estate. Based on this review, the Commission finds that the ESTATE OF WAYNE LEE MCCORMICK, DECEASED; BRIAN MCDONALD, EXECUTOR, is the proper claimant in this claim.

### Jurisdiction

This Commission's authority to hear claims is limited to the category of claims referred to it by the United States Department of State.<sup>8</sup> The Commission's jurisdiction under the "Category A" paragraph of the 2014 Referral is limited to claims for hostage-taking of (1) "U.S. nationals," provided that the claimant (2) was not a plaintiff in any litigation against Iraq for hostage taking pending on May 22, 2011 (the "Pending

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<sup>7</sup> *Program for Adjudication: Commencement of Claims Program*, 79 Fed. Reg. 63,439 (Oct. 23, 2014).

<sup>8</sup> See 22 U.S.C. § 1623(a)(1)(C) (2012).

Litigation”), and (3) has not received compensation under the Claims Settlement Agreement from the Department of State. 2014 Referral at ¶ 3.

#### *Nationality*

This claims program is limited to claims of “U.S. nationals.” Here, that means a claimant must have been a national of the United States when the claim arose and continuously thereafter until May 22, 2011, the date the Agreement entered into force.<sup>9</sup> Because the decedent, Mr. McCormick, died before May 22, 2011, this claim passed from him to his estate prior to May 22, 2011. In such circumstances, it is a well-established principle of the law of international claims that the nationality of the beneficiaries of the estate, as well as of the injured party, must be evaluated in order to establish that the claim has been held continuously by U.S. nationals from the date of injury through the date of the Settlement Agreement.<sup>10</sup> Thus, to satisfy the U.S. nationality requirement, Claimant Estate must show that Mr. McCormick was a U.S. national from the time of the alleged hostage-taking until he died and that the Estate’s beneficiaries were U.S. nationals from Mr. McCormick’s death until May 22, 2011.

Claimant Estate satisfies the nationality requirement. It has provided evidence sufficient to show that the claim was held continuously by a U.S. national from August 2, 1990, which is the date that the alleged hostage-taking began, through the effective date of the Claims Settlement Agreement. From August 2, 1990 to May 1, 2004, the claim was held by the decedent. Claimant Estate has submitted a copy of the decedent’s U.S. passport valid from 1989 to 1999, which shows that he was a U.S. national at the time of the alleged

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<sup>9</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 4-5.

<sup>10</sup> See, e.g., *Claim of ESTATE OF ELIZABETH L. ROOT, DECEASED*, Claim No. LIB-II-040, Decision No. LIB-II-026 (2011); *Claim of THE ESTATE OF JOSEPH KREN, DECEASED*, Claim No. Y-0660, Decision No. Y-1171 (1954); *Claim of PETER KERNAST*, Claim No. W-9801, Decision No. W-2107 (1965); *Claim of RALPH F. GASSMAN and URSULA ZANDMER*, Claim No. G-2154, Decision No. G-1955 (1981); *Claim of ELISAVETA BELLO*, Claim No. ALB-338, Decision No. ALB-321 (2008).

hostage-taking (between August and December 1990). This evidence and other evidence in the record indicate that the decedent remained a U.S. national through the date of his death (May 1, 2004).

From May 1, 2004, to May 22, 2011, the claim was held by the decedent's daughter, Susan Lee McDonald, who (except for specific bequeaths not relevant here) was identified as the beneficiary of the decedent's residuary estate in the decedent's Last Will and Testament, dated September 18, 2002, which was admitted to probate by order of the Circuit Court for McLean County, Illinois, on June 15, 2004. Claimant Estate has submitted Ms. McDonald's U.S. birth certificate and Illinois voter information card from 2015, which establishes that she was a U.S. national from May 1, 2004, the date of the decedent's death, through May 22, 2011, the effective date of the Claims Settlement Agreement. Thus, Claimant Estate has satisfied this element of its claim.

*No Pending Litigation*

Additionally, Category A states that the claimant must not have been a plaintiff in any of the so-called Pending Litigation cases at the time of the entry into force of the Claims Settlement Agreement.<sup>11</sup> Footnote 3 of the 2014 Referral specifically lists the Pending Litigation cases for purposes of the Referral. Claimant Estate, through its executor, has averred under oath in an August 2015 declaration submitted with the Statement of Claim, and the pleadings in the cases cited in footnote 3 confirm, that neither Mr. McCormick nor his estate was a plaintiff in any of those Pending Litigation cases. The Commission thus finds that Claimant Estate has also satisfied this element of its claim.

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<sup>11</sup> The Agreement entered into force on May 22, 2011. *See* Claims Settlement Agreement, art. IX.

*No Compensation under the Claims Settlement Agreement  
from the Department of State*

Claimant Estate also satisfies the final jurisdictional requirement. Brian J. McDonald, one of the co-executors of Mr. McCormick's estate, has stated that neither Mr. McCormick nor his estate has "ever receive[d] any compensation under the [Claims Settlement Agreement] from the Department of State." Further, we have no evidence that the State Department has provided him any compensation under the Claims Settlement Agreement. Therefore, Claimant Estate meets this element of its claim.

In summary, this claim is within the Commission's jurisdiction pursuant to the 2014 Referral and is entitled to adjudication on the merits.

Merits

*Factual Allegations*

Claimant Estate asserts that Iraq held Mr. McCormick hostage from August 2, 1990 until December 9, 1990, a total of 130 days. It states that he was "residing in his hotel in downtown Kuwait City" at the time of the invasion, but that, shortly afterwards, he relocated to an apartment complex within the city, "where he hid with a group of other western nationals." Claimant Estate indicates that Mr. McCormick reported seeing several people hanged by Iraqi soldiers, including one who was dangled from a crane, and that he "witnessed civilians being shot dead on the streets below." Claimant Estate also noted that Mr. McCormick "heard the sounds of gunfire coming from the rooftop, where Iraqi snipers had taken up positions . . . ." Throughout this period, he feared that he would be discovered by Iraqi security forces.

According to Mr. McDonald, the Estate's executor, Mr. McCormick later told Mr. McDonald and his wife (Mr. McCormick's daughter, Susan McDonald) that he and his comrades faced food and water shortages during their captivity, but "they dared not venture

out of their apartments and had no choice but to rely on sympathetic Kuwait nationals to provide them with food and drinking water.” He added that those Kuwaitis “had to take great care to avoid attracting the attention of the Iraqis, who made the harboring of American citizens and other western nationals a crime punishable by death.”

On December 6, 1990, the Iraqi government released all foreign nationals remaining in Iraq and Kuwait,<sup>12</sup> and Claimant Estate states that, after learning of the decree, Mr. McCormick flew to Baghdad on December 9, 1990, from where he boarded an evacuation flight to Frankfurt, Germany.

#### *Supporting Evidence*

Claimant Estate has supported its claim with, among other things, Mr. McDonald’s sworn declaration, dated August 18, 2015, describing Mr. McCormick’s experience in Kuwait as Mr. McCormick explained it to him; two letters from the Department of State, dated August 30, 1990, and September 20, 1990, addressed to “Mrs. Sharon McCormick” and expressing concern for her “loved one” who was among the “Americans being held against their wishes by the Government of Iraq”; and a copy of Mr. McCormick’s U.S. passport valid at the time of the Iraqi invasion, which contains, *inter alia*, a Kuwaiti entry stamp dated July 8, 1990; an Iraqi exit stamp dated December 9, 1990; and a U.S. immigration entry stamp dated December 12, 1990. Claimant Estate has also submitted a number of documents that provide background about the broader geopolitical situation during the First Gulf War in 1990-91, including some that relate specifically to the circumstances faced by U.S. nationals in Iraq and Kuwait at the time. These documents include statements from U.S. and Iraqi officials, resolutions of the United Nations Security Council, newspaper articles, a report from Amnesty International on human rights

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<sup>12</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 12.



violations committed by Iraq in 1990, unclassified cables and a memorandum from the U.S. Department of State, and affidavits submitted in a lawsuit brought by other U.S. nationals who were also in Kuwait or Iraq during the First Gulf War.

*Legal Standard*

To make out a substantive claim under Category A of the 2014 Referral, a claimant must show that (1) Iraq was engaged in an armed conflict and (2) during that conflict, Iraq took the claimant hostage.<sup>13</sup> The Commission has previously held that, to establish a hostage-taking claim, a claimant must show that Iraq (a) seized or detained the claimant and (b) threatened the claimant with death, injury or continued detention (c) in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for the claimant's release.<sup>14</sup> A claimant can establish the first element of this standard by showing that the Iraqi government confined the claimant (or, in this case, the Claimant Estate's decedent) to a particular location or locations within Iraq or Kuwait, or prohibited the claimant from leaving Iraq and/or Kuwait.<sup>15</sup>

*Application of Standard to this Claim*

(1) Armed Conflict: Claimant Estate alleges that Iraq took Mr. McCormick hostage in Kuwait on August 2, 1990 and held him hostage for 130 days, until December 9, 1990, when he was evacuated to the United States. In its first decision awarding compensation for hostage-taking under the 2014 Referral, the Commission held that during

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<sup>13</sup> See *id.* at 16. In claims such as this that involve an estate claimant, this applies to the claimant's decedent.

<sup>14</sup> See *id.* at 17-20.

<sup>15</sup> See *id.* at 17.

this entire period, Iraq was engaged in an armed conflict with Kuwait.<sup>16</sup> Thus, Claimant Estate satisfies this element of the standard.

(2) Hostage-taking: To satisfy the hostage-taking requirement of Category A of the 2014 Referral, Claimant Estate must show that Iraq (a) seized or detained the decedent and (b) threatened him with death, injury or continued detention (c) in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for her release. Claimant Estate satisfies this standard for the 130-day period from August 2, 1990 to December 9, 1990.

(a) Detention/deprivation of freedom: For purposes of analyzing the Estate's allegations of Mr. McCormick having been detained, his time in Kuwait following the Iraqi invasion can be divided into three periods: (i) between the Iraqi invasion on August 2, 1990 and the Iraqi government's formal closing of the borders on August 9, 1990; (ii) from that August 9th formal closing of the borders until the December 6, 1990 announcement that all foreigners could leave Iraq and Kuwait;<sup>17</sup> and (iii) from that December 6th announcement until Mr. McCormick's departure on December 9, 1990.<sup>18</sup>

From August 2, 1990, until Iraq formally closed its borders to foreign nationals on August 9, 1990, Iraq confined Mr. McCormick to his apartment in Kuwait by threatening all U.S. nationals with immediate seizure and forcible detention.<sup>19</sup> Although some foreign nationals did manage to leave Kuwait and/or Iraq during this period, Mr. McCormick could not reasonably be expected to have escaped.<sup>20</sup> Iraqi authorities were forcibly detaining foreign nationals (including U.S. nationals) in Kuwait, relocating many to Baghdad against

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<sup>16</sup> See *id.* at 16-17.

<sup>17</sup> See *id.* at 12.

<sup>18</sup> See *id.* at 20-21.

<sup>19</sup> See *id.* at 21.

<sup>20</sup> See *id.*

their will.<sup>21</sup> Mr. McCormick understandably had, as the United Nations Compensation Commission has put it, a “manifestly well-founded fear” of being killed or forcibly detained if he had made any attempt to leave the country.<sup>22</sup> The Commission has previously recognized that for the purposes of the legal standard applicable here, putting a claimant in this situation in effect amounts to detention.<sup>23</sup> Iraq thus detained Mr. McCormick from August 2, 1990 to August 9, 1990.

From August 9, 1990 until he departed Iraq on December 9, 1990, the Iraqi government confined Mr. McCormick to Kuwait (and, for a short time just before his release, the Baghdad airport), preventing him from leaving the country by the threat of force. As the Commission has previously held, starting on August 9, 1990, the Iraqi government formally closed Kuwait’s borders, forcibly prohibiting U.S. nationals from leaving.<sup>24</sup> As the Commission has previously held, as of that date, Iraq prohibited Claimant from leaving the country, effectively detaining him within the borders of Kuwait and Iraq.<sup>25</sup> For Mr. McCormick, this formal policy of prohibiting U.S. nationals from leaving Kuwait and Iraq lasted until December 6, 1990, when the Iraqi government announced that all foreigners could leave.<sup>26</sup> Because Iraq’s previous releases of various categories of foreign nationals did not apply to Mr. McCormick,<sup>27</sup> this was the earliest date that he was legally authorized to leave Iraq.

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<sup>21</sup> *See id.*

<sup>22</sup> Report and Recommendations Made by the Panel of Commissioners Concerning the First Instalment of Individual Claims for Damages up to US \$100,000 (Category “C” Claims), UN Doc. S/AC.26/1994/3 (1994), at 93.

<sup>23</sup> *See* Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 21.

<sup>24</sup> *See id.* at 7, 21-22.

<sup>25</sup> *See id.* at 22.

<sup>26</sup> *See id.* at 12.

<sup>27</sup> *See id.* at 11-12, 22 (discussing Iraq’s August 28, 1990 release of U.S. nationals who were women or minors).

Although Mr. McCormick may have been legally permitted to leave Kuwait on December 6, 1990, his detention did not end on that date. As the Commission has previously recognized, a claimant's detention ends only on the date that he is released from the control of the person or entity that detained him.<sup>28</sup> Any attempt "[by the perpetrator] to restrict [the] movements" of a claimant establishes control,<sup>29</sup> whereas a claimant who has a reasonable opportunity to leave the site of his or her captivity is deemed no longer to be under the perpetrator's control.<sup>30</sup>

Under this standard, Mr. McCormick remained under Iraq's control until December 9, 1990. The Commission has previously held that Iraq imposed conditions on air travel that limited the ability of foreign nationals, including U.S. nationals, to leave Iraq and/or Kuwait immediately after the August 28, 1990 release announcement applicable to women and minor U.S. nationals,<sup>31</sup> and we conclude that U.S. nationals who sought to leave Iraq and Kuwait after December 6, 1990, were treated similarly.<sup>32</sup> Indeed, the available evidence indicates that Mr. McCormick left Iraq at the first reasonable opportunity, on the December 9, 1990 U.S. government-chartered flight that left Iraq. Because there is no evidence that he remained voluntarily in Iraq at any time during this period, we conclude that he was under Iraq's control and thus continued to be detained from December 6, 1990, to December 9, 1990.

In sum, Iraq thus detained Mr. McCormick from August 2, 1990 until December 9, 1990.

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<sup>28</sup> See *id.* at 22; see also Claim No. LIB-II-183, Decision No. LIB-II-178 (Proposed Decision), at 13 (2012).

<sup>29</sup> Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 22 (citing Claim No. LIB-II-183, Decision No. LIB-II-178 (Proposed Decision), at 12 (2012)).

<sup>30</sup> See *id.*

<sup>31</sup> See *id.* at 22.

<sup>32</sup> See Claim No. IRQ-II-180, Decision No. IRQ-II-140, at 10-11.

(b) Threat: In its first decision awarding compensation for hostage-taking under the 2014 Referral, the Commission determined that the Iraqi government threatened U.S. nationals in Kuwait and Iraq numerous times with continued detention.<sup>33</sup> This included Mr. McCormick.<sup>34</sup> Both Iraqi President Saddam Hussein and the Speaker of Iraq's National Assembly Saadi Mahdi made clear that American nationals (as well as those from numerous other countries) would not be permitted to leave.<sup>35</sup>

In short, the Iraqi government made unequivocal threats to continue to detain U.S. nationals in Kuwait and Iraq. Mr. McCormick was a U.S. national in Kuwait at the time. Claimant Estate has thus established that Iraq threatened to continue to detain him.

(c) Third party coercion: The Commission has previously held that Iraq detained all U.S. nationals in Kuwait or Iraq at the time and threatened them with continued detention in order to compel the United States government to act in certain ways as an explicit and/or implicit condition for their release.<sup>36</sup> Iraq itself stated that it sought three things from the United States government before it would release the detained U.S. nationals; it wanted the United States (i) not to attack Iraq, (ii) to withdraw its troops from Saudi Arabia; and/or (iii) to end the economic embargo imposed on Iraq.<sup>37</sup> Indeed, at the time, the U.S. government itself understood Iraq's actions to be hostage-taking.<sup>38</sup>

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<sup>33</sup> See *id.* at 23.

<sup>34</sup> While we determine that these statements apply to Mr. McCormick and other similarly situated U.S. nationals who were prevented from leaving Iraq or Kuwait after the invasion, we do not make any findings as to whether they also apply to U.S. nationals with diplomatic status: Iraqi officials made specific representations about the ability of diplomatic and consular staff members with U.S. nationality (and their relatives) to leave Iraq and Kuwait throughout the crisis. See *In Iraq: 'We Have A Problem' Iraq Holds Fleeing U.S. Diplomats Staff from Kuwait Reaches Baghdad, But Can't Leave*, PHILA. INQUIRER, Aug. 24, 1990, <https://perma.cc/B2YF-79AY>.

<sup>35</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 23.

<sup>36</sup> See *id.*

<sup>37</sup> See *id.* at 23-24.

<sup>38</sup> See George H. W. Bush, "These Innocent People . . . Are, In Fact, Hostages" in U.S. Dep't of State, *American Foreign Policy Current Documents 1990* 484 (Sherrill Brown Wells ed. 1991); see also 2014 Referral at ¶ 3; cf. S.C. Res. 674 (Oct. 29, 1990) ("actions by . . . Iraq authorities and occupying forces to take third-State nationals hostage" and demanded that Iraq "cease and desist" this practice).

In sum, this claim meets the standard for hostage-taking within the meaning of the 2014 Referral. Iraq held Mr. McCormick hostage in violation of international law for a period of 130 days, and his Estate is thus entitled to compensation.

#### COMPENSATION

Having concluded that the present claim is compensable, the Commission must next determine the appropriate amount of compensation.

In its first decision awarding compensation for hostage-taking under the 2014 Referral, the Commission held that successful claimants should be awarded compensation in the amount of \$150,000 plus an additional \$5,000 for each day the claimant was in captivity.<sup>39</sup> Therefore, for the 130 days Iraq held Claimant hostage, he is entitled to an award of \$800,000, which is \$150,000 plus (130 x \$5,000). This amount constitutes the entirety of the compensation to which Claimant is entitled under the Claims Settlement Agreement.

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<sup>39</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 24-26.

The Commission hereby enters the following award, which will be certified to the Secretary of the Treasury for payment under sections 7 and 8 of the ICSA.<sup>40</sup>

AWARD

Claimant is entitled to an award in the amount of \$800,000.

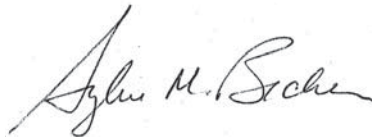
Dated at Washington, DC, October 19, 2017  
and entered as the Proposed Decision  
of the Commission.

**This decision was entered as the  
Commission's Final Decision  
on**

**December 12, 2017**



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Anuj C. Desai, Commissioner



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Sylvia M. Becker, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days of delivery of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after delivery, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. § 509.5 (e), (g) (2016).

<sup>40</sup> 22 U.S.C. §§ 1626-1627 (2012).