

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

IN THE MATTER OF THE CLAIM OF

IRIS MERLIS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2859

Decision No. CU -4379

AMENDED PROPOSED DECISION

By Proposed Decision issued January 7, 1970 the Commission certified a loss in the amount of \$18,600.00, based on 50 shares of preferred stock of Consolidated Railroads and 50 shares of preferred stock of The Cuba Railroad owned since prior to October 13, 1960, the date of loss. The decision denied claim based on an additional 100 shares of Consolidated Railroads and an additional 150 shares of The Cuba Railroad. The claimant has since submitted satisfactory evidence concerning the denied portions of the claim and accordingly the decision is herein amended.

The Commission now finds that claimant additionally acquired 50 shares of Consolidated Railroads preferred on November 17, 1960 for \$256.00 and 50 preferred on April 20, 1961 for \$357.00; as well as 50 shares of Cuba Railroad preferred on November 17, 1960 for \$156.00 and 100 preferred on August 14, 1962 for \$156.00.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on October 13, 1960. Claimant has been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of Samuel J. Wikler, et al., Claim No. CU-2571, 1968 FCSC Ann. Rep. 47.)

The Commission finds that claimant, upon her purchase of the securities, acquired after October 13, 1960, succeeded to the losses sustained by the assignors of the claimed securities, and concludes that she succeeded to and suffered a loss in the total amount of \$925.00 (the price she paid) as a result of the nationalization of the Railroads on October 13, 1960.

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.)

The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from the dates shown below (including the losses set out in the Proposed Decision), to the date on which provisions are made for the settlement thereof:

<u>FROM</u>	<u>ON</u>
October 13, 1960	\$18,600.00
November 17, 1960	412.00
April 20, 1961	357.00
August 14, 1962	<u>156.00</u>
	\$19,525.00

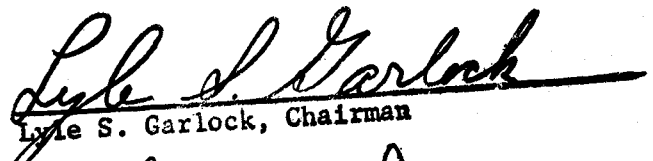
Accordingly, the Certification of Loss in the Proposed Decision is set aside, the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

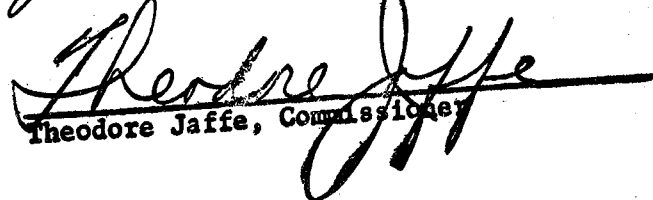
CERTIFICATION OF LOSS

The Commission certifies that IRIS MERLIS 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 Nineteen Thousand Five Hundred Twenty-five Dollars (\$19,525.00) with interest at 6% per annum from the aforesaid dates of loss to the date of settlement.

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

MAR 24 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until 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 Amended 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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IN THE MATTER OF THE CLAIM OF

IRIS MERLIS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2859

Decision No. CU 4379

PROPOSED DECISION

Claimant, IRIS MERLIS, who owned preferred stock interests in the Consolidated Railroads of Cuba and The Cuba Railroad Company, asserts a claim in the amount of \$99,200.00 under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Railroads.

In our decisions entitled the Claim of Cora W. Welsh (Claim No. CU-2503) and Claim of Irwin Nack, et al. (Claim No. CU-1960), which we incorporate herein by reference, we held that the properties owned by the Railroads were nationalized or otherwise taken by the Government of Cuba on October 13, 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 method used in determining the value per preferred share of Consolidated Railroads as \$272; and of The Cuba Railroad Company as \$100.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Welsh and Nack decisions; that she was an American national at the requisite times; that she has been the owner of 50 shares of preferred stock in the Consolidated Railroads and of 50 shares of preferred stock in The Cuba Railroad Company since prior to October 13, 1960; and that she suffered a loss in the total amount of \$18,600.00 within the meaning of Title V of the Act.

Claim has also been asserted for the loss sustained in connection with an additional 100 shares of Consolidated Railroads and 150 shares of The Cuba Railroad Company.

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.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant has been asked to establish the dates when these stock interests were acquired, and the price paid. No reply has been received. Accordingly, this part of the claim must be and hereby is denied.

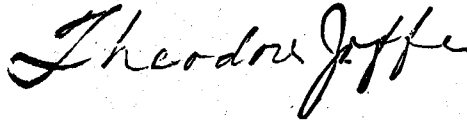
The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

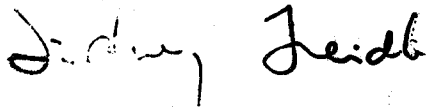
The Commission certifies that IRIS MERLIS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eighteen Thousand Six Hundred Dollars (\$18,600.00 ) with interest at 6% per annum from October 13, 1960 to the date of settlement.

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

7 JAN 1970



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

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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, 32 Fed. Reg. 412-13 [1967].)