

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARVIN L. MORRIS, JR.,

Plaintiff,

-against-

THE PEOPLE'S REPUBLIC OF CHINA
AND
THE REPUBLIC OF CHINA,

Defendants.

FILED

MAY 6 - 2005

USDC S.D.N.Y.
Index No.

COMPLAINT

BRIANTI

Plaintiff Demands
A Trial By Jury

'05 CIV 4470

Plaintiff, by its attorneys, Moss and Associates, P.C., for its Complaint avers, upon personal knowledge as to its own status and acts and otherwise upon information and belief, as follows:

JURISDICTION AND VENUE

1. Jurisdiction exists pursuant to 28 U.S.C. § 1605(a)(2) and (3). The matter in controversy concerns the commercial activity of the Defendants in the United States, their having taken property from a citizen of the United States in violation of international law and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.
2. (a) Venue is proper in this District because Defendants are doing business in this District and are subject to the jurisdiction of this District; and
(b) Assignment of this action to the White Plains Division is appropriate because Defendants are doing business in Westchester County and Plaintiff's attorneys are located in Westchester County.

PARTIES

3. Plaintiff, Marvin L. Morris, Jr. is an individual citizen of the United States of America.

4. Defendant, The People's Republic of China ("PRC"), is the successor government to the Imperial Chinese Government and the Chinese Republic.
5. Defendant, The Republic of China ("ROC"), is the successor government to the Imperial Chinese Government and the Chinese Republic.

STATEMENT OF FACTS

6. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 5 above as though set forth fully and at length herein.
7. Hukuang is a region in south-central China which includes the provinces of Hunan, Hubei, and part of Szechuan.
8. In 1905, a consortium of Hukuang gentry, officials and businessmen, with the blessing and participation of the provincial governor Chang Chih-Tung, obtained a concession to develop a domestically financed rail line through Hukuang. It came after the successful provincial lobbying for compensated cancellation of the development rights of J. P. Morgan's American China Development Company which actually fronted for a Belgian rail development firm seeking to construct a line from Canton to Hankow. The line was a key route through Hukuang linking a commercial port to the cross-roads of Chinese rail lines in the interior, and the cancellation of the foreign concession opened the door for domestic development.
9. The Hukuang Railroad was financed with a £6,000,000 sterling loan shared by the four powers, with the rights to develop separate sections of track carefully negotiated among the participants. In a move that doubtless infuriated the gentry, Chang then closed the deal by persuading the Qing government to nationalize all domestic railway development

on the grounds that delays caused by the undercapitalization of domestic developers were impeding progress. The 5%, 50 year Hukuang Railways Sinking Fund Gold Loan was signed in 1911 by the Minister of Posts and Communications.

10. Frustrated by the Qing court's resistance to reform and by China's weakness, young officials, military officers, and students—inspired by the revolutionary ideas of Sun Yat-Sen—began to advocate the overthrow of the Qing dynasty and creation of a republic. A revolutionary military uprising, the Wuchang Uprising, began on October 10, 1911 in Wuhan.
11. On October 16, Prince Regent Chunpro claimed on behalf of the boy emperor his abdication from the throne. With the Qing government siding with foreign investors in financing Chinese development, the rights recovery movement turned against the Manchu rulers as well as foreign commercial interests. The Hukuang Railway loan was the last external debt of the Chinese Imperial Government.
12. The provisional government of the Republic of China was formed in Nanjing on March 12, 1912 with Sun Yat-Sen as President, but Sun was forced to turn over power to Yuan Shikai who commanded the New Army and was Prime Minister under the Qing government, as part of the agreement to let the last Qing monarch abdicate.
13. Recognition of the new government by world powers was conditional upon honoring international debts.
14. The first step towards this was the 1913 Reorganization Loan (the "Loan"). The Loan Agreement for the Loan was authorized by Presidential Order on April 22, 1913 and signed on April 26, 1913.

15. The term of the Loan was forty-seven (47) years, with payment of principal beginning with the eleventh year.
16. The bonds issued to finance the Loan, in denominations of £20 and £100, are the subject of the present lawsuit (the "Bonds").
17. The Bonds explicitly state: "These obligations are intended to be binding upon the Government of China and any Successor Government."
18. Several of the Bonds were sold to citizens of the United States.
19. Several of the Bonds were sold in the United States.
20. The issuance of the Bonds had a direct impact in the United States because holders of the Bonds in the United States have not been paid.
21. Yuan Shikai proceeded in the next few years to abolish the national and provincial assemblies and declared himself emperor in 1915.
22. Yuan's imperial ambitions were fiercely opposed by his subordinates and, faced with the prospect of rebellion, Yuan broke down and died shortly after in 1916, leaving a power vacuum in China.
23. The May Fourth Movement began in 1919. The discrediting of liberal Western philosophy amongst Chinese intellectuals was followed by the adoption of more radical lines of thought. This in turn planted the seeds for the irreconcilable conflict between the left and right in China that would dominate Chinese history for the rest of the century.
24. In the 1920s, Sun Yat-Sen established a revolutionary base in south China and set out to unite the fragmented nation. With Soviet assistance, he entered into an alliance with the fledgling Communist Party of China (CPC).

25. On October 19, 1921, the Chinese government declared bankruptcy, and with few exceptions, China began to default on her foreign loans in the 1920's. Only bonds backed directly by the Maritime Customs Revenues, including the 1898 Anglo-German Loan and the 1913 Reorganization Loan continued to pay.
26. After Sun's death in 1925, one of his protégés, Chiang Kai-shek, seized control of the Kuomintang (Nationalist Party or KMT) and succeeded in bringing most of south and central China under its rule in a military campaign known as the Northern Expedition.
27. Having defeated the warlords in south and central China by military force, Chiang was able to secure the nominal allegiance of the warlords in the North. In 1927, Chiang turned on the CPC and relentlessly chased the CPC armies and its leaders out of their bases in southern and eastern China.
28. In 1934, the CPC forces embarked on the Long March across China's most desolate terrain to the northwest, where they established a guerrilla base at Yan'an in Shaanxi Province.
29. During the Long March, the communists reorganized under a new leader, Mao Zedong (Mao Tse-tung).
30. The bitter struggle between the KMT and the CPC continued openly or clandestinely through the 14-year long Japanese invasion (1931-1945), even though the two parties nominally formed a united front to oppose the Japanese invaders in 1937, during the Sino-Japanese War (1937-1945) portion of World War II.
31. In 1939, the government of China ceased making interest payments on the Bonds.
32. Several demands to resume payments on the Bonds were made on the government of China in the following years.

33. The war between the CPC and KMT resumed after the Japanese defeat in 1945. By 1949, the CPC occupied most of the country.
34. Chiang Kai-shek fled with the remnants of his government and military forces to Taiwan, where he proclaimed Taipei to be the Republic of China's "provisional capital" and vowed to reconquer the Chinese mainland.
35. With the proclamation of the People's Republic of China on October 1, 1949, China was divided yet again, into the PRC on the mainland and the ROC on Taiwan and several outlying islands of Fujian, with two governments, each of which regarded itself as the one true Chinese government and denounced the other as illegitimate.
36. Demands for payment on the Bonds continued to be made to the Chinese Government.
37. In 1986, the PRC acknowledged its liability on the Bonds and made payment to British holders of the Bonds.
38. In 2000, Plaintiff purchased nine of the Bonds, Serial Numbers: (i) 880059 (£100), (ii) 879697 (£100), (iii) 879695 (£100), (iv) 879699 (£100), (v) 879698 (£100), (vi) 880058 (£100), (vii) 123787 (£20), (viii) 123774 (£20), and (ix) 164794 (£20), each with coupons attached ("Plaintiff's Bonds"). Copies of Plaintiff's Bonds are attached hereto as Exhibit A.
39. The American Bondholders Foundation ("ABF") is a Delaware corporation which represents several holders of the Bonds, including Plaintiff with respect to Bonds owned by Plaintiff in addition to Plaintiff's Bonds.
40. The ABF and its members have retained the law firm of Stites & Harbison ("S&H") to act as counsel in the matter of collecting on the Bonds.

41. According to documents prepared by S&H, a valuation was done of the Bonds by an expert in the field (the "Valuation").
42. The Valuation states that the £20 Bonds should each be valued at approximately Five Million Five Hundred and Fifty Thousand United States Dollars (US\$5,550,000.00), and the £100 Bonds should each be valued at approximately Twenty Seven Million Seven Hundred and Fifty Thousand United States Dollars (US\$27,750,000.00). See Letters written by S&H attached hereto as Exhibit B.
43. Based on the Valuation, and given the additional passage of time, the aggregate value of Plaintiff's Bonds is approximately One Hundred and Eighty Three Million One Hundred and Fifty Thousand United States Dollars (US\$183,150,000.00).
44. Upon his purchase of the Bonds, Plaintiff immediately began sending demands for payment to the Chinese government through the ABF.

AS AND FOR A FIRST CAUSE OF ACTION

45. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 44 as if set forth herein at length.
46. In accordance with the terms of Plaintiff's Bonds, the successor government to the Imperial Chinese Government and the Chinese Republic is liable to Plaintiff for the full value of Plaintiff's Bonds.

AS AND FOR A SECOND CAUSE OF ACTION

47. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 46 as if set forth herein at length.

48. By refusing to make payment on Plaintiff's Bonds, the successor government to the Imperial Chinese Government and the Chinese Republic has, in violation of international law and in connection with commercial activity carried on in the United States, taken Plaintiff's rights to property (the Bonds), which property is in the United States, and the successor government to the Imperial Chinese Government and the Chinese Republic is therefore liable to Plaintiff for the full value of Plaintiff's Bonds.

WHEREFORE, Plaintiff demands judgment:

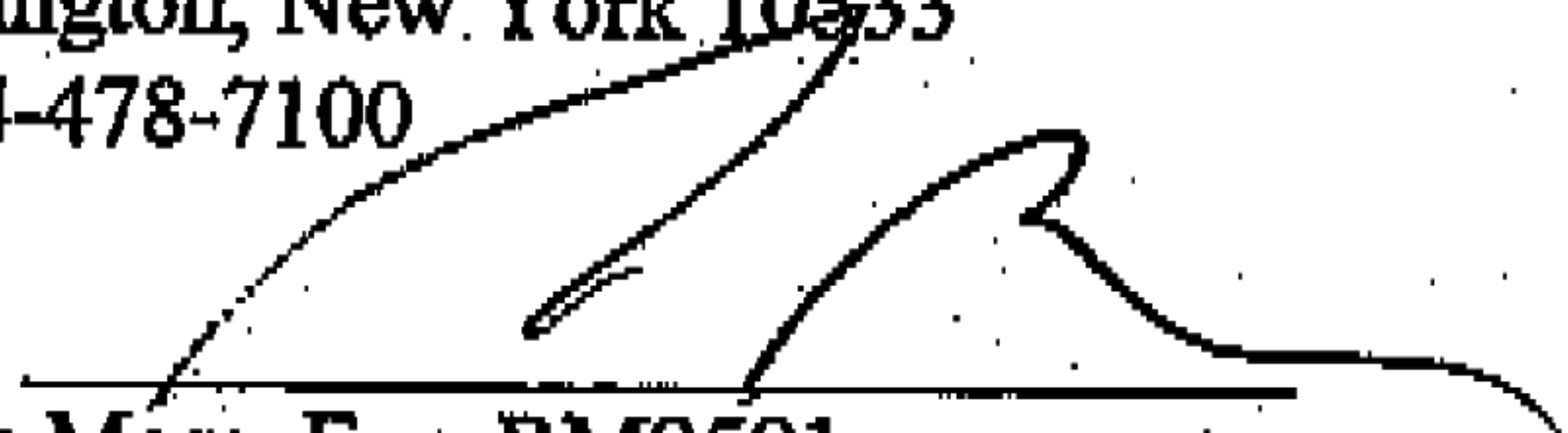
1. On the First Cause of Action: against each Defendant awarding Plaintiff the sum of One Hundred and Eighty Three Million One Hundred and Fifty Thousand United States Dollars (US\$183,150,000.00).
2. On the Second Cause of Action: against each Defendant awarding Plaintiff the sum of One Hundred and Eighty Three Million One Hundred and Fifty Thousand United States Dollars (US\$183,150,000.00).
3. For such other and further relief as to this Court may seem just and proper, including the costs and disbursements of this action.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: Irvington, New York
May 6, 2005

Moss and Associates, P.C.
Attorneys for the Plaintiff
50 South Buckhout Street, Suite 302
Irvington, New York 10533
914-478-7100

By: 
Ron Moss, Esq. RM9591

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

<p>MARVIN L. MORRIS, JR.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>THE PEOPLE'S REPUBLIC OF CHINA AND THE REPUBLIC OF CHINA,</p> <p style="text-align: center;">Defendants.</p>	<p>Index No.</p> <p style="text-align: center;">VERIFICATION</p>
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PLAINTIFF'S VERIFICATION

The undersigned, being duly sworn, deposes and says that I am the Plaintiff herein, and have read the foregoing pleading filed on my behalf, and the facts stated therein are true.

April 19, 2005


Marvin L. Morris, Jr.

Subscribed and sworn to before me, this 28th day of APRIL 2005.


Notary Public

R. RICHARD THOMAS
STATE OF DELAWARE, NOTARY PUBLIC
MY COMMISSION EXPIRES - 6-15-06

M2045
OVER £100
OVER FR 2525

M2045
OVER £1347
OVER YEN 979.60

THE CHINESE GOVERNMENT

FIVE PER CENT REORGANISATION GOLD LOAN OF 1913 FOR £25,000,000 STERLING. OR 25,000,000 STERLING OR MARKS 100,000,000 OR FRANCS 625,000,000 OR ROUBLES 236,750,000 OR YEN 2,449,000,000

SCHULDVERSCHREIBUNG ÜBER 2045 MARK

OVER £100 STERLING, OVER FR 2525 FRANCS, OVER 979.60 YEN, OVER 1347 RUBLEL, OVER 979.60 YEN.

THE CHINESE GOVERNMENT 5% REORGANISATION GOLD LOAN OF 1913
FOR £25,000,000 STERLING
OR MARKS 100,000,000
OR FRANCS 625,000,000
OR ROUBLES 236,750,000
OR YEN 2,449,000,000

5% CHINESISCHE STAATSANLEHNE IN GOLD VON 1913
FÜR 25,000,000 STERLING
ODER 100,000,000 MARKEN
ODER 625,000,000 FRANCS
ODER 236,750,000 RUBEL
ODER 2,449,000,000 YEN

EMPRUNT DE L'ETAT CHINOIS 5% OR DE 1913 DE REORGANISATION
DE FR. 625,000,000
OU £25,000,000 STERLING
OU 100,000,000 MARKS
OU 236,750,000 RUBLES
OU 2,449,000,000 YEN

ОБЪЕДИНЕННАЯ ПЕРВАЯ РЕОРГАНИЗАЦИОННАЯ ГОЛДОВАЯ ЗАЙМОВАЯ ОБОЯЗАТЕЛЬНОСТЬ КИТАЙСКОГО ПРАВИТЕЛЬСТВА 1913 ГОДА
НА СЪЕМЪ 25,000,000
КИТАЙСКИХ РУБЛЕВ
ИЛИ 100,000,000
КИТАЙСКИХ ДАЛТАРЪ
ИЛИ 625,000,000
КИТАЙСКИХ ДАЛТАРЪ

In five per cent, bearing interest payable in London in pounds sterling, in France in francs, in Russia in roubles, and in Japan in yen.

Die Anleihe ist in Gold zu zahlen und zu verzinsen. Die Zinsen sind in London in Pfund Sterling, in Frankreich in Francs, in Russland in Rubeln und in Japan in Yen zu zahlen.

The loan is to be repaid in gold. Interest is payable in London in pounds sterling, in France in francs, in Russia in roubles, and in Japan in yen.

Займ должен быть погашен золотом. Проценты по займу выплачиваются в Лондоне в фунтах стерлингов, во Франции в франках, в России в рублях и в Японии в йенах.

BOND FOR \$100

SCHULDVERSCHREIBUNG ÜBER M2045

OBLIGATION DE FR5 2525

ОБЪЕДИНЕННАЯ ПЕРВАЯ РЕОРГАНИЗАЦИОННАЯ ГОЛДОВАЯ ЗАЙМОВАЯ ОБОЯЗАТЕЛЬНОСТЬ КИТАЙСКОГО ПРАВИТЕЛЬСТВА 1913 ГОДА

The Government of the Republic of China has authorized the issue of this loan for the purpose of reorganizing the public debt of the Republic of China.

Die Regierung der Republik China hat die Ausgabe dieser Anleihe für den Zweck der Reorganisation der öffentlichen Schuld der Republik China autorisiert.

The Government of the Republic of China has authorized the issue of this loan for the purpose of reorganizing the public debt of the Republic of China.

Правительство Китайской Республики разрешило выпуск этого займа для цели реорганизации государственной задолженности Китайской Республики.

FACSIMILE OF THE SIGNATURE OF THE MINISTER OF FINANCE AND OF THE SEAL OF THE CHINESE GOVERNMENT.

Facsimile of the signature of the Minister of Finance and of the seal of the Chinese Government.

Facsimile of the signature of the Minister of Finance and of the seal of the Chinese Government.

FACSIMILE OF THE SIGNATURE OF THE MINISTER OF FINANCE AND OF THE SEAL OF THE CHINESE GOVERNMENT.

