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Obama Didn't Save Money By Rushing \$1.3 Billion To Iran

Either the Obama administration can't do math, or it has a very good reason for privately accepting worse interest rates than it would have gotten for American taxpayers by running Iran's claims through the Hague tribunal.



By [Joel Goodman](#)
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While the Congress and the press were focused on trying to catch the President in a lie about paying \$400 million in ransom to get four prisoners back from Iran, the President was getting away with an even bigger lie. The Administration said they saved the American taxpayer money by arranging an early negotiated settlement in a case that was before the Iran-US Claims Tribunal. Their story is that if they waited for the Tribunal to hand down an award, the interest on the \$400 million principle amount would have been as much as 10 billion Dollars.

That sounds very nice. But, it's not true.

To see how much money the administration saved the American taxpayer, we begin in the middle, with Julia Frifield, Assistant Secretary of State for Legislative Affairs.

Referring to the January 2016 settlement of the now infamous claim brought by Iran to the Iran-United States Claims Tribunal, in a letter to Rep. Mike Pompeo (R-Kan.) released by Pompeo's office back in March, Ms. Frifield said:

"If Iran's claim for the trust fund balance and interest had gone to decision in the tribunal, the United States could well have faced significant exposure in the billions of Dollars,"... " We were able to secure a favorable resolution on the interest owed

to Iran and avoid a much larger tribunal award against us, saving the U.S. taxpayers a significant amount of money.”

Sadly, nothing that Ms. Frifield said in the above quoted statement, like the remarks made by Obama, Kerry and Kirby, is true. Firstly, the Administration's stated position that an Award was imminent is questionable, considering that the claim had been lingering for more than 35 years. It was Kirby who actually tried to slip in the lie that an Award was already prepared to be handed down at an August 18th State Department Daily Briefing. Still, if one were to assume, for the sake of argument, that an Award was pending, what is not questionable is the fact that it was not in the best interests of the American taxpayer to settle this deal outside of the Tribunal.

The veracity of Ms. Frifield's statement about the necessity of the Administration to seize the moment and take what they said was a good deal, has been clouded by the other more subjective and tormented issues, whether or not the payment was ransom, and laundered into foreign currency and delivered to an airport's tarmac.

But, Ms. Frifield is not the only one carrying water for the White House.

State Department spokesman John Kirby, and Secretary John Kerry are also carrying this bucket, which gets heavier by the week, as more revelations continue to come out.

John Kerry was the first to demonstrate how he graduated college without being able to do math. In his official release on January 17th 2016, regarding the conclusion of the prisoner swap and the claim's settlement, he wrote,

"This is the latest of a series of important settlements reached over the past 35 years at the Hague Tribunal. In constructive bilateral discussions, we arrived at a fair settlement to this claim, which due to litigation risk, remains in the best interests of the United States.

Iran will receive the balance of \$400 million in the Trust Fund, as well as a roughly \$1.3 billion compromise on the interest. Iran's recovery was fixed at a reasonable

rate of interest and therefore Iran is unable to pursue a bigger Tribunal award against us, preventing U.S. taxpayers from being obligated to a larger amount of money."

Kerry's story sounded so good that on August 4th, the day after the WSJ broke the story on the cash transfer, the President repeated the story, and discounted anyone who thought that they cut a bad deal.

*" ... at the time we explained that Iran had pressed a claim before an international tribunal about them recovering money of theirs that we had frozen; that, as a consequence of its working its way through the international tribunal, it was the assessment of our lawyers that we were now at a point where there was significant litigation risk and we could end up costing ourselves billions of Dollar s. (underscore added) *It was their advice and suggestion that we settle. "**

The President tried to make it sound as if this was the only claim that had passed through the Iran-US Claims Tribunal over the past 35 years, rather than the more than 4,000 that has actually been to The Hague and back.

The simple truth is that the method of calculation has been known for some time.

In an August 18th 2016 New York Times article, Rear Admiral Kirby repeated the now familiar mantra:

" "We were able to conclude multiple strands of diplomacy within a 24-hour period, including implementation of the nuclear deal, the prisoner talks and a settlement of an outstanding Hague Tribunal claim, which saved American taxpayers potentially billions of Dollar s," he said, a reference to estimates that the United States would have had to pay far more if it lost the case in The Hague." "

As regards Admiral Kirby, it is truly sad to think that a Rear Admiral is a liar or just that bad at math.

As regards Secretary Kerry, the question is, did he fill this bucket on his own and bring it to the White House or did the water come from the White House?

At the heart of the matter, and what determines the veracity of the Administration's entire story, is the fact that Ms. Frifield's claims, and everyone else's claims in the Administration who have spoken on this issue to the US Congress about saving money by taking an early settlement are blatantly false. That alone kicks the legs out from beneath their narrative, which, again, in Ms. Frifield's own written words mandated the decision to settle outside of the Tribunal.

“If Iran’s claim ... had gone to decision in the tribunal, the United States could well have faced significant exposure in the billions of Dollars ... We were able to secure a favorable resolution on the interest ... and avoid a much larger tribunal award ... saving the U.S. taxpayers a significant amount of money.”

Her statement, and everyone else's would truly be nice if they were true. Why Ms. Frifield, or Kerry or Kirby, or the President's lawyers thought that no one would ever connect the dots regarding the amount of interest that would have been awarded in a Tribunal Award is beyond comprehension. I assume they all skipped whatever courses in college developed deductive reasoning skills. Or, quite possibly, the American public has accepted this degree of lying as *de rigueur*. The fact is that on 2 July 2014, under this Obama Administration, less than two years before this recent out of court settlement, an Award in which the US was also the defendant was handed down by the Iran-United States Claims Tribunal. In AWARD NO. 602-A15 (IV)A24-FT-EN the Tribunal laid out the terms of the interest to be paid on the 'pre-Judgment' sum in that Award - that would be the sum accepted by the Tribunal as the amount of principal to which any interest would be applied.

The January 2016 settlement is part of Case B1, filed by Iran in 1981, mostly dealing with military hardware purchased through the Foreign Military Sales Program. The Tribunal has been faced with more than 4,000 claims, since it first met in July 1981, as a

result of the Algerian Declarations. There are enough Awards that have been made public, to see that a precedent for payments of awards is well established by now.

Doing the math, by the terms of the Tribunal's interest formula, the interest of \$1.3 billion handed over to the Iranians is actually more interest than the amount that would have been applied had an award been decreed, rather than a settlement taken.

Here's how it works, as stated in the above cited Award 602-A15 (IV)A24-FT-EN:

"288. Accordingly, having considered all relevant circumstances and the submissions made, in the present Cases, the Tribunal deems it fair and reasonable to award Iran simple prejudgment interest on all amounts awarded to Iran at an annual rate (365-day basis) equal to the average prime bank lending rate in the United States during the period from the dates the Tribunal has determined that those amounts are due up to and including the date of this Award. In selecting the prime bank lending rate in the United States as the rate of interest applicable in these Cases, the Tribunal was also mindful of Article 7.4.9 (2) of the UNIDROIT Principles 2010, which provides: The rate of interest shall be the average bank short-term lending rate to prime borrowers prevailing for the currency of payment at the place for payment, or where no such rate exists at that place, then the same rate in the State of the currency of payment. In the absence of such a rate at either place the rate of interest shall be the appropriate rate fixed by the law of the State of the currency of payment."

Using this formula and applying it to \$400 million, beginning in November 1979, when President Carter froze the transfer to Iran of pre-paid military hardware purchased through the FMSP, and continuing for a period of 35 years and two months until the end of December 2015 - the accrued interest would have come to \$1,118,640,000.00 or in round terms, 1.12 Billion Dollars. That figure is less than the 1.3 billion Dollars in interest paid to Iran. So, there was no rush. Obviously, there was another motivation to get this deal done, and do it in cash.

If one were to use the amount in legal and administrative fees paid in award 602-A15, which was in the neighborhood of \$850,000.00 and round that figure up to one million Dollars, and add that to the already rounded up figure of 1.12 billion Dollars of applied interest, the total interest and other charges for costs and attorneys' fees adds up to less than \$1.25 billion Dollars - obviously less, rather than more, than the 1.3 billion Dollar amount paid by the administration. Even with somewhat rounded up numbers, the Obama Administration paid somewhere around 189 million Dollars more than it would have had to pay in interest had there been an actual Award from the Tribunal concluding at the same time when they negotiated a settlement.

Paid by Administration	\$ 1,310,390,236.15
Calculated interest and costs via Tribunal formula	\$ - 1,120,000,000.00
Legal and Administrative fees (est.)	\$ - 1,000,000.00
Over payment	\$ 189, 390,236.15

Short term bank rates sourced from:
<https://www.federalreserve.gov/releases/h15/data.htm>

Year	Principal in millions \$	Average yearly rate %	Nov Dec 1979 Div by 1/6 for 2 months One time special	Yearly interest in millions \$	Aggregate in millions \$
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1979	400 / 1.666	12.67	50.68 / 1.666 =	8.44	8.44
1980	400	15.26		61.04	69.48
1981	400	18.87		75.48	144.96
1982	400	14.85		59.40	204.36
1983	400	10.79		43.16	247.52
1984	400	12.04		48.16	295.68
1985	400	9.93		39.72	335.40
1986	400	8.33		33.32	368.72
1987	400	8.21		32.84	401.56
1988	400	9.32		37.28	438.84
1989	400	10.87		43.48	482.32
1990	400	10.01		40.04	522.36
1991	400	8.46		33.84	566.20
1992	400	6.25		25.00	581.20
1993	400	6.00		24.00	605.20
1994	400	7.15		28.60	633.80
1995	400	8.83		35.32	669.12
1996	400	8.27		33.08	702.20
1997	400	8.44		33.76	735.96
1998	400	8.35		33.40	769.36
1999	400	8.00		32.00	801.36
2000	400	9.23		36.92	838.28
2001	400	6.91		27.64	865.92
2002	400	4.67		18.68	884.60
2003	400	4.12		16.48	901.08
2004	400	4.34		17.36	918.44
2005	400	6.19		24.76	943.20
2006	400	7.96		31.84	975.04
2007	400	8.05		32.20	1007.24
2008	400	5.09		20.36	1027.60
2009	400	3.25		13.00	1040.60
2010	400	3.25		13.00	1053.60
2011	400	3.25		13.00	1066.60
2012	400	3.25		13.00	1079.60
2013	400	3.25		13.00	1092.60
2014	400	3.25		13.00	1105.60
2015	400	3.26		13.04	\$ 1118.64

According to Frifield *“Iran was of course seeking very high rates of interest for a period over three decades.”* That very high interest rate was most probably the same across the board 10% interest that Iran was seeking in the claim that yielded Award 602-A15 (IV)A24-FT-EN. The 10% rate was denied by the Tribunal from the beginning of the Award interest calculations. But, even using that 10% figure it would have only yielded

Iran \$1,406,532,000.00. Even this amount is well below the "*potentially billions of Dollars*" in interest being bantered about by the administration.

This new information puts a dagger into the Administration's claim that taking the deal when they did saved the American taxpayer from a much larger penalty.

Ms. Frifield should quickly learn that no employee in any administration should ever say anything to the effect that they are saving the tax payers in this country money by doing some one thing versus doing some other thing. That, in of itself is a dead giveaway that there is fabrication upstream.

The Administration's explanation for the settlement and the method of payment, is simply questionable. If Iran could have gotten a much larger settlement from the Tribunal, why would they would have settled for less? The train of thought that Iran took a worse deal than one they could have had, had they waited, was a train of thought that was never able to stay on the tracks. We see from the actual numbers, Iran received a better deal by settling with the US than they would have received from the Tribunal had the claim been decided with an Award.

There are established methods for making payment. According to someone from the Iran-United States Claims Tribunal,

"If an award is rendered in favour of the US, payments are made from a security account in the Netherlands Settlement Bank held by the Algerian Central Bank as Escrow Agent. If an award is rendered in favour of Iran, payments are made by way of bilateral arrangements made between the two parties concerned, which in one instance involved the Netherlands Central Bank as an intermediary regarding an award rendered on agreed terms."

We now have a picture of what would have been the size of an Award with interest, and also an understanding that this most recent January 2016 payment should not have been treated as uniquely as it was, considering that there have been previous payments made to Iran. It is quite evident that the administration's cover story doesn't hold water.

