

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

IN THE MATTER OF THE CLAIM OF

RUTH E. BAKER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0704

Decision No. CU - 5959

Counsel for claimant:

Andrew F. O'Connell, Esq.

PROPOSED DECISION

This claim against the Government of Cuba under Title V of the International Claims Settlement Act of 1949, as amended, was presented by RUTH E. BAKER in the amount of \$250,000 based upon the asserted ownership and loss of real and personal property in Cuba. Claimant has been a national of the United States since birth.

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 interest including any leasehold interest, and 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) (1969).)

Claimant described her losses as follows:

141 acres of land in Camaguey Province	\$154,000
Buildings: 2-story, 9-room residence, 3 garages, small house, water tower	30,000
Personalty: motor, tools and equipment, household furniture and fixtures, citrus crop on trees, miscellaneous personalty	66,000

Claimant stated that the real and personal property was acquired by gift on June 20, 1951 except for 15 acres which was acquired in two transactions in exchange for other realty plus 600 pesos; that subsequent improvements were made costing \$500; that the property was taken on January 19, 1961; that the 1960 citrus crop was harvested but she did not receive the proceeds; that the last income was in 1959, gross \$8,439.53, net after depreciation being \$3,619.28. Further, claimant stated that she asserted a loss to Internal Revenue Service of \$75,000, that she was allowed \$69,950.55 less depreciation, and that a settlement was made with Internal Revenue Service due to lack of evidence to prove her claim.

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The file reflects that on September 14, 1960 claimant informed the American Embassy that she owned 139 acres of land in various types of citrus fruit, and six acres of land in matured cedar trees, near Sola, Camaguey; also, two tractors, two pumps and deep wells; an 8-room house, an electric plant; a large barn, garage and other outbuildings; that she valued the property at \$75,000 for income tax purposes in the United States, excluding the house and outbuildings, which she valued at \$25,000.

Thereafter counsel for claimant submitted copy of a translation of Deed No. 7 of July 7, 1958 whereby claimant acquired land described as 10 acres or four hectares in San Rafael, Canasi farm, Cairige, Camaguey, for 500 pesos. Additionally a copy of a translation of Deed 87, of October 4, 1955 reflects that she had also acquired land described as two hectares, or five acres in the same area for 100 pesos. Further the record includes a copy of a translation of a Deed No. 97 of June 20, 1951, whereby claimant acquired from John A. Mayo plots of land described in hectares or acres, the equivalents set out obviously being inexact. The area, as stated in this translation, appears to total about 136 acres. Measurements written in the margin remain unexplained. The document continues that the property, including improvements built or planted, was transferred to claimant for 20,000 pesos.

The record includes the affidavit of one Harold D. Giffin who states therein that he was a citrus owner in Camaguey and was familiar with the groves acquired by claimant from John A. Mayo, that they were the best in the area, and that it is his opinion the fair market value of the groves was \$1500 per acre, both in 1913 and when Castro took over.

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Additionally, the record includes an affidavit of one Enrique Lopez who states that he managed the claimant's groves for ten years; that he and his family owned 3,300 acres of land, 1,000 of which was planted in orange trees, adjoining claimant's. He describes claimant's land as 141 acres, and values the property as follows:

Land	\$154,000	
2-story, 9-room house	20,000	
wells, pumps, tower, motor	15,000	
3 garages, small houses	10,000	
Tools and equipment	15,000	
Household furnishings	5,000	
Crop on trees	30,000	
Miscellaneous	<u>1,000</u>	\$250,000

Further, affiant states he has examined the deeds and finds that claimant received 146 acres from the Mayos in 1951, and sold 20 in 1955; purchased 5 in 1955 and purchased 10 in 1958, a remaining total of 141 acres.

By letter of October 2, 1967, claimant was asked to submit the land extracts, evidence as to value, description of all improvements, list of personalty; and to supply the names of claimant's aunt and uncle who she stated had property in the same area. No reply was received and a form of "follow-up" letter was sent to counsel on April 19, 1968. Counsel then informed the Commission that he had information needing translation. Thereafter claimant submitted a request that the Commission attempt to obtain evidence for her. The documents from which the translations were made were received. A report received from abroad thereafter, however, did not include favorable results.

Upon consideration of the entire record, the Commission finds that claimant owned about 141 acres of land in Sola, Camaguey, with certain improvements and personalty.

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Further the Commission finds that this property came within the scope of the Cuban Agrarian Land Reform law, and finds that it was taken by the Government of Cuba on January 19, 1961, as asserted by claimant and Enrique Lopez, pursuant to said law.

There remains for consideration the value of the property taken from the claimant.

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.

#### Land

It is noted that Mr. Giffin values the land at \$1500 per acre. Mr. Lopez values it at about \$1,092 per acre. Claimant has not complied with the Commission's request for the names of the individuals having land in the vicinity in order that the Commission might examine such claims, if any, for the benefit of the claimant. Neither has she explained why she reported the value of this property to the Internal Revenue Service as \$75,000 apparently including improvements and personalty, nor has she submitted any rulings, as requested.

Based on the entire record, including evidence available to the Commission as to the value of similar citrus groves in Cuba, the Commission finds that the fair and reasonable value of claimant's land was \$154,000 and that she suffered a loss in that amount.

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Improvements

Claimant has not complied with the Commission's several requests for detailed descriptions of the improvements, as well as personalty involved. On the basis of the general description and evidence available as to other similar property in Cuba, the Commission finds that the 9-room residence, with utilities, had a value of \$10,800 at the time of loss; that the garage structure had a value of \$600, the small house a value of \$2,000 and the remaining house a value of \$1,000; a total, therefore, of \$14,400.

No evidence, other than the assertions of Mr. Lopez as to value at time of loss, is available to ascertain the cost, or age of the wells, pumps, windmill, water tower and motor. However, the Commission is convinced that these items had some value at the time of loss and finds \$7,500 to be the fair and reasonable value of these agricultural improvements.

Personalty

As stated above, claimant has consistently refrained from itemizing the tools, equipment and household furniture and fixtures, in order that a precise evaluation could be made of this property. However, the Commission finds in the absence of evidence of greater value, that at the time of loss, the tools and equipment had a value of \$1,500; and the household furnishings had a value of \$1,080, a total therefore of \$2,580.

Citrus Crop and Miscellaneous

The Commission finds that the record does not establish that in fact there was a crop on the trees at the time that the property was taken; nor that if so, it had a value of \$30,000 as alleged. Further, the claim asserted in the amount of \$1,000 for an item called "Miscellaneous" is not otherwise described and affords no basis for evaluation. For these reasons the Commission finds that claimant has not established the loss of such items within the scope of Title V of the Act, and is constrained to and does deny these items of claim.

Recapitulation

Claimant's losses on January 19, 1961, within the meaning of Title V of the Act may be summarized as follows:

Land	\$154,000	
Residence	10,800	
Small houses, etc.	3,600	
Agricultural improvements	7,500	
Agricultural implements	1,500	
Household furnishings	<u>1,080</u>	\$178,480


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 the Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered.

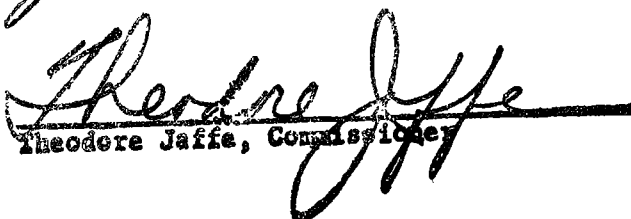
CERTIFICATION OF LOSS

The Commission certifies that RUTH E. BAKER 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 Hundred Seventy-Eight Thousand Four Hundred Eighty Dollars (\$178,480) with interest thereon at 6% per annum from January 19, 1961 to the date of settlement.

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

NOV 10 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

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).)

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