

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

IN THE MATTER OF THE CLAIM OF

LUCY ALVINA BARRIOS

Claim No. CU-4736

Claim No. CU-8737

Decision No. CU-6106

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered May 26, 1971.
No hearing requested.

Hearing on the record held September 8, 1971.

FINAL DECISION

In this matter Claim No. CU-4736 against the Government of Cuba under Title V of the International Claims Settlement Act of 1949, as amended, was opened by the Commission on claimant's behalf while she was in Cuba. On June 1, 1970 LUCY ALVINA BARRIOS adopted this action and filed specifics of her claim, which was assigned No. CU-8737.

The Commission was early informed by the spouse of a cousin of claimant, that claimant is one of six children of Albert Bahler and Josephine Bahler, both deceased, but no evidence was submitted in support then or since.

Claimant on June 1, 1970 described her losses as a farm of 3-3/4 caballerias, \$80,000, and personalty having a value of \$1,000, stating this was inherited from her father Albert Bahler on December 19, 1949. She stated it had been purchased on March 25, 1907 for \$40,000. Thereafter she forwarded to the Commission, on June 10, 1970, a request for assistance in obtaining evidence and in such application described the property as a 15-acre farm and a 10-acre farm, with two houses built for \$18,000 each.

A report was received from abroad which claimant has declined to translate in her own words, although she has addressed the Commission in the Spanish language. This report indicates that certain properties were found

recorded in the name of Albert Bahler. The areas do not correspond with the allegations of claimant. Additionally, there were received certain miniature photocopies of documents in which the name of claimant's father appears. These were also forwarded to claimant, but no translation has been received.

By letter of March 20, 1971, a son of claimant addressed the Commission on behalf of his mother, and described the property subject of the claim as follows:

(1) Commission in the office of National Police to be paid in 30 years, and not paid	\$ 20,000
(2) Savings account	12,000
(3) Farm of 100 acres	80,000
(4) Farm of 66-2/3 acres	40,000
(5) Four houses	55,000
(6) Mechanical and agricultural equipment	17,000
(7) Cattle and poultry	15,000
	<u>\$239,000</u>

It was explained to Mr. Barrios that a claim can be amended, but the issue is the burden of proof; that it is not sufficient to list property, but a claimant must evidence ownership and value. It was further suggested he might be able to assist his mother with translations.

Thereafter claimant was informed by letter of April 12, 1971 that the Commission is without translations of the documentation, and explaining the need to establish how she may have inherited from her father, with suggestions as to information to be furnished.

By decision of May 26, 1971, claim was denied for failure of proof.


Claimant contends that she cannot translate the documents, that otherwise it is too expensive, that she has documents of the farm land, but not of the houses, equipment or livestock. Claimant, however, has not submitted the documents of the farm land for the Commission's examination.

The Commission has re-examined the entire record but finds that claimant has not established the extent of her ownership, the area of the properties, nor the asserted values. Accordingly, the Commission finds no basis for altering its decision in this matter and the Proposed Decision is affirmed.

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

SEP 8 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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

IN THE MATTER OF THE CLAIM OF

LUCY ALVINA BARRIOS

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU -4736

Claim No. CU-8737

Decision No. CU - 6106

PROPOSED DECISION

Claim No. CU-4736 against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was opened by the Commission on the claimant's behalf while she was in Cuba. On June 1, 1970 LUCY ALVINA BARRIOS adopted this action and filed her own claim and it was assigned No. CU-8737. The claims, in the amended amount of \$239,000.00, are based upon the asserted loss of improved real property, farm land and personal property. 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) (1970).)

Claimant asserts the following losses:

	<u>Asserted Value</u>
1. A "commission"	\$ 20,000.00
2. Savings account	12,000.00
3. A 100-acre farm	80,000.00
4. A 66-2/3-acre farm	40,000.00
5. Four farmhouses	55,000.00
6. Farm equipment	17,000.00
7. Cattle and poultry	<u>15,000.00</u>
Total	\$239,000.00


Claimant had requested the Commission's assistance in obtaining evidence in support of her claim. In its letters of February 25, 1971 and March 15, 1971 the Commission sent to the claimant certain documents in the Spanish language which had been received from abroad and requested translations thereof. In the Commission's letter of March 29, 1971 to claimant's son and in its letter of April 12, 1971 to claimant the family

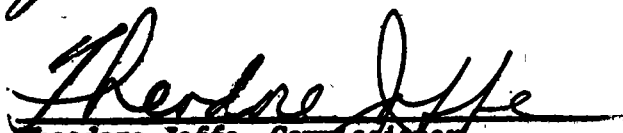
was again advised that the translations requested had not been submitted. The suggested evidence has not been received.

The Commission finds that the evidence of record is not persuasive. Claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

MAY 26 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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 (1970).)

CU-4736

CU-8737