

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

IN THE MATTER OF THE CLAIM OF

LONE STAR FARMS CORPORATION S.A.
WILLIAM F. BRIDEWELL
RAYMOND H. HEDGE
JAMES C. WYNNE, SR.

Claim No. CU-0835

Decision No. CU -6120

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

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$800,000.00 was presented by LONE STAR FARMS CORPORATION S.A., a corporation organized under the laws of Cuba, and by WILLIAM F. BRIDEWELL, RAYMOND H. HEDGE and JAMES C. WYNNE, SR., nationals of the United States since their 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.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity,

Since LONE STAR FARMS CORPORATION S.A. was organized under the laws of Cuba, it does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 percent or more in natural persons who are citizens of the United States. In this type of situation it has been held that American stockholders are entitled to file a claim for the value of their ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

Accordingly, the claim of LONE STAR FARMS CORPORATION S.A. must be and it is hereby denied. On the other hand, the claims of its stockholders and creditors, WILLIAM F. BRIDEWELL, RAYMOND H. HEDGE and JAMES C. WYNNE, SR., are being considered below.

The record shows that in 1954 LONE STAR FARMS CORPORATION S.A. was organized as a Cuban corporation; that 300 shares in the face amount of \$100.00 each were issued, as follows: 100 shares to WILLIAM F. BRIDEWELL, 100 shares to RAYMOND H. HEDGE, and 100 shares to JAMES C. WYNNE, SR.

The record further shows that on July 22, 1954 by Deed No. 104 executed before Notary Public Gustavo Lopez Munoz of Havana, a tract of land containing approximately 83 caballerias (or 2,756 acres) was purchased by LONE STAR FARMS CORPORATION S.A. for a consideration of \$124,356.84, which purchase price was advanced in equal shares by the three aforementioned stockholders. The tract of land was known as Finca "Paquita" and was situated on the eastern bank of the Hanabana river, about 12 kilometers west of the town of Aguada de Pasajeros, Province Las Villas. The Finca "Paquita" consisted, at the time of the purchase, of land suitable to a small extent for the growing of sugar cane, but otherwise mostly of cattle land.

After the purchase, the LONE STAR FARMS CORPORATION S.A. cleaned and leveled the land and acquired agricultural machinery, tractors, plows, motor graders, bulldozers and other equipment, preparing the land for the cultivation of rice. For this purpose roads, irrigation and drainage canals, water wells, and structures, such as a rice drying plant, a warehouse, and an electric power house were erected. Additionally, an airstrip and hangar were constructed and an airplane acquired. In order to accommodate the workers and supervisory personnel, residences for the workers and employees were constructed. From year to year additional land had to be leveled and drained, irrigation and drainage ditches constructed, new water wells drilled and pumping stations erected.

The rice farm did not become profitable until 1958, when it started to yield substantial income, mainly due to the production and development of specially suited seed rice. The 1959 harvest was already considered to have been very successful, but by the end of the year 1959 the Government of Cuba began to interfere with the management indicating that it intended to place the farm under the control of the National Institute of Agrarian Reform.

Under Cuban Law No. 588 of October 7, 1958, and under a Special Decree dated April 12, 1960 portions of the farm were placed under the management

of the National Institute of Agrarian Reform. On October 14, 1960, the Government of Cuba by Resolution No. 3, issued pursuant to Law No. 851, nationalized the entire property of LONE STAR FARMS CORPORATION S.A.

The Commission, therefore, concludes that the property of the corporation, in which claimants WILLIAM F. BRIDEWELL, RAYMOND H. HEDGE and JAMES C. WYNNE, SR. had each a one-third stockholder's interest, was effectively nationalized by the Government of Cuba on October 14, 1960.

The value of the corporation on the date of nationalization remains to be ascertained.

Claimants have failed to submit any balance sheet or profit or loss statement for the company, asserting that all the books and records of the company were confiscated by Cuban authorities and are no longer available. Claimants, however, submitted an audited statement showing that they had invested in cash since 1954, the date the company was founded, until its nationalization, \$671,760.36; and that they have recovered, after the taking, \$25,376.28. They also submitted a detailed inventory of the buildings, wells, pumping stations and of other personal property owned by the corporation at the time of nationalization. In addition, claimants furnished photographs showing the appearance of certain parts of the rice farm, its buildings, wells, pump stations, irrigation and draining canals, implements, machinery and equipment.

Based upon the entire record, the Commission finds that the assets of the corporation had the following value:

(1) Land, as per purchase price in deed of July 12, 1954 .	\$124,356.84
(2) Land improvements consisting of cleaned, leveled and graded rice fields, newly constructed irrigation and drainage canals, roads and an airstrip (but exclusive of buildings, wells and irrigation stations)	252,254.31
(3) Wells and irrigation pumps, buildings, residences, farm machinery and equipment, rice drying and storage plant, transportation equipment, miscellaneous personal property, and cattle.	<u>295,149.21</u>
Total	\$671,760.36

The value under (3) has been determined in accordance with the inventory furnished by the claimants in support of the claim; the value under (2) is the result of the difference between the over-all investments of \$671,760.36 made by the claimants and the added items (1) and (3) above.

The record shows that LONE STAR FARMS CORPORATION S.A. was indebted to the Citizens First National Bank of Tyler, Texas, in the amount of \$214,000.00 in the form of notes of the corporation, endorsed and guaranteed by claimants BRIDEWELL, HEDGE and WYNNE, share and share alike, one-third each, and that these loans were paid upon demand of the bank by the endorsers share and share alike, one-third each.

Consequently, the corporation's net worth was:

Assets, as stated above	\$671,760.36
Less indebtedness	- <u>214,000.00</u>
Net worth	\$457,760.36

The Commission therefore finds that each of the individual claimants suffered a loss as a stockholder of LONE STAR FARMS CORPORATION S.A. in the amount of one-third of \$457,760.36, or \$152,586.79.

Claimants BRIDEWELL, HEDGE and WYNNE, as payers and holders of the notes of the LONE STAR FARMS CORPORATION S.A. are entitled to assert a claim as the corporation's creditors for the sum of \$214,000.00. The Commission has held that a claim of an American creditor based upon a debt of a Cuban corporation, nationalized by the Government of Cuba, constitutes within the meaning of Title V of the Act, a claim for losses occurring on the date of nationalization. (See Claim of Kramer, Marx, Greenlee & Backus, Claim No. CU-0105, 25 FGSC Semiann. Rep. 62 [July-Dec. 1966].) The Commission therefore concludes that each of the individual claimants sustained an additional loss as creditor of LONE STAR FARMS CORPORATION S.A. in the amount of one-third of \$214,000.00 or \$71,333.33 resulting from the nationalization of the corporation on October 14, 1960.

Accordingly, each of the individual claimants suffered the following loss:

As a stockholder 1/3 of \$457,760.36	\$152,586.79
As a creditor 1/3 of \$214,000.00	<u>71,333.33</u>
	\$223,920.12
Less 1/3 of \$25,376.28 collected after nationalization	<u>8,458.76</u>
Net amount of loss	\$215,461.36

Losses exceeding this amount have not been substantiated by sufficiently probative evidence, and the claims based upon such excess losses are hereby denied.

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), and in this case it is so ordered.

CERTIFICATIONS OF LOSS

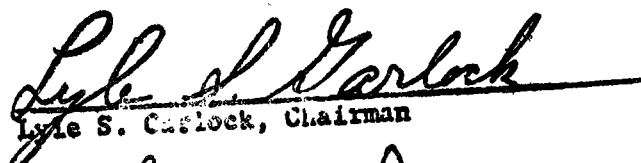
The Commission certifies that WILLIAM F. BRIDEWELL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the Act, in the amount of Two Hundred Fifteen Thousand Four Hundred Sixty-one Dollars and Thirty-six Cents (\$215,461.36) with interest thereon at 6% per annum from October 14, 1960, the date of nationalization to the date of settlement;

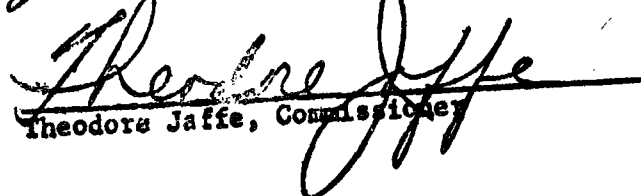
The Commission certifies that RAYMOND H. HEDGE suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the Act, in the amount of Two Hundred Fifteen Thousand Four Hundred Sixty-one Dollars and Thirty-six Cents (\$215,461.36) with interest thereon at 6% per annum from October 14, 1960, the date of nationalization to the date of settlement; and

The Commission certifies that JAMES C. WYNNE, SR. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the Act, in the amount of Two Hundred Fifteen Thousand Four Hundred Sixty-one Dollars and Thirty-six Cents (\$215,461.36) with interest thereon at 6% per annum from October 14, 1960, the date of nationalization to the date of settlement.

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

MAR 17 1971


Lyle S. Carlock, 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 (1970).)