

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

IN THE MATTER OF THE CLAIM OF

HYMAN GOLDSTEIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1886

Decision No. CU - 4316

AMENDED PROPOSED DECISION

Under date of January 7, 1970, the Commission denied this claim as the record did not establish that claimant was the owner of 500 shares of stock of Vicana Sugar Company, as asserted.

Claimant has submitted additional evidence in this matter including his check to the brokerage house in the amount of \$1,525.00 as of February 9, 1951, as well as the receipt to him for the payment of the remaining \$100. It further appears that claimant's mother, Sarah Goldstein, in fact died on November 24, 1956, as evidenced by a copy of the death certificate. The other members of the family, apparently all United States nationals on November 12, 1959, the date of loss, assert no interest in this matter.

The entire record having been considered the Commission now finds that HYMAN GOLDSTEIN was the owner of 500 shares of stock in the Vicana Sugar Company since prior to November 12, 1959; that in the Claim of Rose Lerner, CU-3413 (which we incorporate herein by reference), we held that the properties of the Company were nationalized or otherwise taken by the Government of Cuba on November 12, 1959. We need not again detail here the reasons or method used in determining the value on November 12, 1959 as \$1.00 per share.

Accordingly, the Commission holds that claimant suffered a loss in the amount of \$500.00 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from November 12, 1959,

the date of loss, to the date on which provisions are made for the settlement thereof. (See Lerner, supra.)

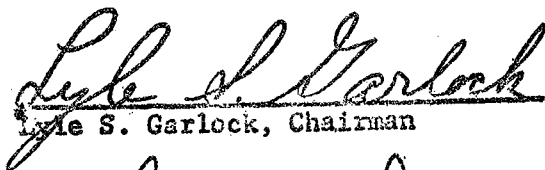
The following Certification of Loss will be entered in accordance with the foregoing, and in all other respects the Proposed Decision is affirmed.

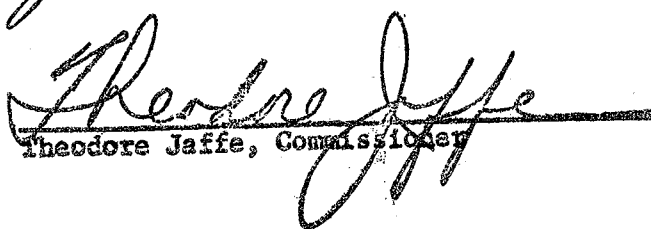
CERTIFICATION OF LOSS

The Commission certifies that HYMAN GOLDSTEIN 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 Five Hundred Dollars (\$500.00) with interest thereon at 6% per annum from November 12, 1959 to the date of settlement.

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

JUN 9 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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 Amended 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-1886

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

IN THE MATTER OF THE CLAIM OF

HYMAN GOLDSTEIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1886

Decision No. CU 4316

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 \$1,625.00, was presented by HYMAN GOLDSTEIN and is based upon an asserted loss sustained in connection with the ownership of common stock issued by Vicana Sugar Company of Cuba. Claimant has been a national of the United States since his derivative naturalization on April 16, 1928.

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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

In order for the Commission to favorably consider the claim, it must be established that the property was owned in whole or in part by a national of the United States on the date of loss, and that the claim arising therefrom has been continuously owned by a national or nationals of the United States.

Claimant asserts that in 1951, he purchased 500 shares of common stock issued by Vicana Sugar Company, a Cuban corporation. Claimant states that his funds were used to purchase the stock, although the stock certificates are in the name of Sarah Goldstein, claimant's mother. The original stock certificates are of record with the Commission. Each certificate is dated February 28, 1951, and each lists Sarah Goldstein as owner. Sarah Goldstein was not a national of the United States.

The record indicates that on March 20, 1963, Mrs. Goldstein attempted to transfer the shares to claimant. This was not accomplished, however, inasmuch as there was no transfer agent for the shares as of the date of the attempted transfer. Consequently, the shares remained in Mrs. Goldstein's name from the date of purchase to the time of her death, which occurred sometime after March 20, 1963.

In support of his assertions, claimant has submitted a copy of a receipt from Weber-Millican Co., stockbrokers, which names claimant as payor and reads as follows: "\$100 in cash to be applied to your purchase." It is noted that the securities purchased are not described. In addition, the record contains

a copy of a confirmation of purchase from the same brokerage house, informing Mrs. Sarah Goldstein that an unspecified amount of Vicana Sugar Company stock had been purchased for her account. Both receipt and confirmation are dated February 6, 1951. The record contains another receipt, dated February 10, 1951, acknowledging receipt of the balance due on the transaction, from Mrs. Sarah Goldstein. Claimant has been unable to locate the cancelled check or other evidence relating to this latter receipt.

Evidence available to the Commission establishes that Vicana Sugar Company was intervened by the Cuban Government on November 12, 1959. Consequently, it appears that the date of any loss with respect to stock issued by Vicana Sugar Company was November 12, 1959.

Assuming, arguendo, that claimant did purchase the stock with his own funds, the fact remains that from 1951 until the attempted transfer, and thereafter, Sarah Goldstein was the owner of record of the shares. Claimant states that the registration of the shares in his mother's name was for tax purposes only, and asserts that he was at least the "beneficial" or "indirect" owner of the stock. Notwithstanding the filial situation obtaining in this claim, the Commission must nevertheless recognize that Sarah Goldstein had legal title to the securities until the time of her death, and that Sarah Goldstein, and not claimant, had the right to receive all distributions made by the company to stockholders.

The Commission therefore concludes that Sarah Goldstein was the owner of the subject securities from the date of purchase until the date of her death. Inasmuch as the date of loss with respect to the securities was November 12, 1959, and Mrs. Goldstein's death did not

occur until 1963 or later, it is clear that the property upon which the claim is based was not continuously owned by a United States national from the date of loss to the date of filing as required by the Act. (See Claim of Sigridur Einarisdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966].) Consequently, the Commission is constrained to deny the claim, and it is hereby denied.

The Commission considers 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

7 JAN 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, 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, 32 Fed. Reg. 412-13 (1967).)

CU-1886