

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

IN THE MATTER OF THE CLAIM OF

FRANKLYN GONZALEZ

Claim No. V-0200

Decision No. V-0390

PROPOSED DECISION

This claim in an unstated amount against the Government of the Socialist Republic of Vietnam under Title VII of the International Claims Settlement Act of 1949, as amended by Public Law 96-606 (94 Stat. 3534), is based upon the loss of personal property in Saigon.

The claimant was born in Bronx, New York on October 27, 1950 and has been a lifelong citizen of the United States.

Under section 703 of Title VII of the International Claims Settlement Act of 1949, as amended, the Commission is given the following jurisdiction:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against Vietnam arising on or after April 29, 1975, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which, at the time of such nationalization, expropriation, or other taking, was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made."

The record indicates that the claimant lived and worked in Saigon as an employee of the Federal Electric Corporation until the fall of South Vietnam in the spring of 1975. The claimant states that he was evacuated from Saigon in late April 1975 and was forced to leave virtually all of his personal property behind. The claimant has submitted a six-page inventory of the property he assertedly owned in South Vietnam, which included furniture, appliances, cooking and eating utensils, audio and

photographic equipment, additional recreational items, clothing and other personal effects, as well as an automobile. The record also includes photocopies of some ration cards evidencing the claimant's purchase of some of this property. Based on the entire record, the Commission concludes the claimant was the owner of the items of property as listed in his inventory.

The record contains no evidence as to what became of the subject property after the claimant's departure from Saigon in April 1975. However, the Commission has found that property left behind by Americans in South Vietnam would have been considered "property of the people" by the Communist authorities and taken under government control. In the absence of precise evidence as to when such action occurred, the Commission has held that such property was taken on or about May 1, 1975--the date the Communists completed their occupation of South Vietnam. (See Claim of BETTY JANET MITCHELL, Claim No. V-0358, Decision No. V-0259 (1984).) Accordingly, the Commission finds that the property involved in the instant claim was taken as of May 1, 1975.

As FRANKLYN GONZALEZ was a United States citizen at the time of loss, the Commission concludes that he is entitled to an award under the provisions of Public Law 96-606.

In determining the value of the subject property, the Commission has given careful consideration to the information provided by the claimant in his inventory, including the month and year that each item was acquired as well as its purchase price. With regard to the automobile, which the claimant has identified as a Mazda 626, the claimant asserts that he purchased it in August 1974 for \$6,000. The Commission has a National Automobile Dealers Used Car Guide for May 1975 which does not indicate such a high price for any 1974 Mazda, however, and the claimant has furnished no further documentation or information concerning his car. Based on the present record, therefore, the

Commission does not feel the evidence warrants a finding of more than \$3,000 as the value of the subject automobile at the time of loss. As for the rest of the property in the claimant's inventory, the Commission has calculated the value for each item using the purchase price given by the claimant as a starting point. In determining the value of this property at the time of loss, the Commission has depreciated each item purchased before 1975 at 5% annually from the year of purchase to the year of loss (1975), except for articles of clothing which have been depreciated at 20% annually. Calculated as such, the rest of the claimant's property would have been worth \$8,853.00 at the time of loss. Adding this figure and the \$3,000 for the automobile together, the Commission finds that the claimant's property was worth a total of \$11,853.00.

The claimant has advised the Commission that he received approximately \$700.00 from the Federal Electric Corporation for his losses in South Vietnam. Under section 706 of Public Law 96-606, the Commission is directed as follows:

"In determining the amount of any claim under this title, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses for which the claim is filed."

In accordance with this statutory provision, the Commission concludes that \$700.00 should be deducted from the value of the subject property at the time of loss--\$11,853.00--in determining the claimant's rightful award under the Act. Accordingly, the Commission finds that FRANKLYN GONZALEZ is entitled to an award in the principal amount of \$11,153.00.

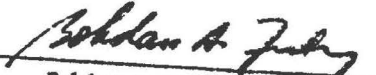
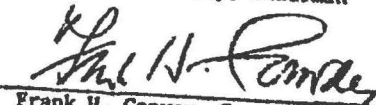

The Commission has concluded that in granting awards on claims under section 703 of Title VII of the Act, for the nationalization, expropriation, or other taking of property, interest shall be allowed at rate of 6% simple interest per annum from the date of loss to the date of settlement. (See Claim of BETTY JANET MITCHELL, Claim No. V-0358, Decision No. V-0259 (1984).)

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Claimant, FRANKLYN GONZALEZ, is therefore entitled to an award in the principal amount of Eleven Thousand One Hundred Fifty-Three Dollars (\$11,153.00), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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

MAY 20 1985


Bohdan A. Futey, Chairman

Frank H. Conway, Commissioner

Joseph W. Brown, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision.

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.)