

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

IN THE MATTER OF THE CLAIM OF

KAPLAN RUSSIN & VECCHI

Claim No. V-0310

Decision No. V-0479

PROPOSED DECISION

This claim in the amount of \$70,824.11 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 business property in South Vietnam.

KAPLAN RUSSIN & VECCHI is a law firm, organized as a partnership, in which 69% of the partnership interest was held by United States citizens at the time this claim arose in 1975 and 64% of the partnership interest was held by United States citizens at the time the claim was filed in 1982. Based on the evidence of record, indicating that a majority of the partnership interest was held by United States citizens at all times pertinent to this claim, the Commission concludes that the claimant is a United States national within the meaning of Public Law 96-606.

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 establishes that the claimant, formerly known as Kirkwood, Kaplan, Russin & Vecchi, operated a branch office in Saigon during the 1960's and 1970's. Documentation in the claim file indicates that the claimant leased an office at no. 9 Place Lam Son in Saigon, which was stocked with assorted furniture, equipment, and a library during the years 1967-1974. The record also indicates that various improvements to the office were carried out between 1971 and 1974, including upgrading of the electrical system, additional lighting, and floor tiling. A company car was purchased in 1968. The record also contains evidence of four bank accounts and four certificates of deposit in the company's name. When South Vietnam fell to the Communists in the spring of 1975, however, the claimant was forced to abandon its Saigon office and cease all business activities in the country.

The record contains no evidence as to what became of the claimant's business assets after the fall of Saigon on April 30, 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 the claimant was a United States national at the time of loss, the Commission concludes that it is entitled to an award under the provisions of Public Law 96-606.

The claimant has asserted the loss of \$16,048.91 worth of inventory, consisting of \$6,537.63 for the office equipment, furniture, and law books, \$9,015.79 for the office improvements,

and \$495.48 for the automobile--a 1968 Citroen. Based on the evidence of record, the Commission concludes that these figures are reasonable estimates of the value of these property items at the time of loss in 1975.

The claimant has asserted the loss \$13,287.80 worth of refundable deposits, consisting of \$11,494.25 worth of office security deposits and \$1,793.55 worth telex, telephone, and electric meter deposits. The record indicates that the office security deposits, totalling 5,000,000 piasters, were made during 1972, while the telex, telephone, and electric meter deposits, totalling 760,220 piasters, were made between 1970 and 1974. The Commission notes that the claimant converted the various piaster amounts into dollars at the applicable exchange rates at the time the deposits were made. The Commission holds, however, that the official exchange rate of piasters to dollars on May 1, 1975, which was 755:1, applies in this claim since that is when the deposits were lost. Accordingly, the Commission determines that the office security deposits were worth the dollar equivalent of \$6,622.52 and the telex, telephone, and electric meter deposits were worth the dollar equivalent of \$1,006.91, for a total of \$7,629.43, at the time of loss.

The claimant asserts the loss of 3,000,000 piasters in cash as well as three bank accounts totalling 1,728,279 piasters. The record does not establish the existence of the subject cash, however, nor the three accounts in the balances alleged. The claim file does include four statements of account indicating that the claimant held two accounts at the Saigon branch of the Chase Manhattan Bank and two accounts at the Saigon branch of the First National City Bank. These documents gave the balances for the respective accounts as of late 1974, but provided no information on the status of the accounts thereafter. The record contains no further documentation concerning the bank accounts. Thus, there is no evidence of the balances of the various

accounts, or that the accounts were still in existence, at the time the claimant's Saigon business was taken on May 1, 1975. The claimant's assertion as to the loss of cash, as well as three bank accounts, seems to imply that at least one of the subject accounts was indeed closed prior to the fall of Saigon, although the claimant has provided no further evidence or information in this regard. Based on the present record, therefore, the Commission concludes that the portion of this claim based on the three bank accounts and cash must be denied.

The claimant has submitted documentary evidence of four certificates of deposit it held in Saigon, two with the Chase Manhattan Bank and two with the First National City Bank. At the time of loss on May 1, 1975, the deposits with the Chase Manhattan Bank stood at 5,018,882 piasters and 2,454,220 piasters, respectively, and the deposits with the First National City Bank stood at 1,342,322 piasters and 1,596,199 piasters, respectively--for a total of 10,411,623 piasters. The claimant has asserted the loss of \$14,360.86 therefor, based on a conversion rate of piasters to dollars of 725:1. Once again, however, the Commission holds that the official exchange rate on the date of loss--May 1, 1975--applies in this claim. Accordingly, the Commission determines that the four certificates of deposit were worth \$13,790.23.

The claimant has asserted the loss of \$12,624.10 worth of accounts receivable, consisting of \$6,060.13 worth of dollar accounts and \$6,563.97 worth of piaster accounts. With regard to the twenty-three dollar accounts listed by the claimant, the Commission notes that five involved debts owed by companies located outside of Vietnam and that an additional seven are debts of private individuals. The Commission concludes that these items are not compensable since they do not fall within the pertinent definition of property in subsection 702(3)(B) of the Act as "debt(s) owed by Vietnam or by any enterprise which has

been nationalized, expropriated, or otherwise taken by Vietnam." As for the remaining eleven accounts receivable totalling \$3,891.85, the Commission finds that they are compensable under Public Law 96-606. Of the twenty-six piaster accounts receivable listed by the claimant, six involved debts of private individuals which the Commission finds are not compensable for the reason cited above. In addition, another eight of the accounts were judged by the firm's Saigon office manager in 1975 to be of doubtful collectibility. Since these accounts could not properly be termed assets of the claimant, the Commission determines that they must also be denied. As for the remaining accounts, totalling 1,889,625 piasters, the Commission finds that they are compensable under Public Law 96-606. Based on the official exchange rate of piasters to dollar of 755:1 at the time of loss, the Commission determines that the piaster accounts were worth \$2,502.81. Thus, the total value of the compensable accounts receivable involved in this claim was \$6,394.66.

The claimant has also asserted the loss of office files in the amount of \$1,000.00 and relocation expenses in the amount of \$6,980.68. The record contains no documentary evidence concerning the office files, or any explanation as to their valuation. Furthermore, it appears likely that they would have consisted primarily of business records and client data of no value to the new Communist authorities in South Vietnam. As for the relocation expenses, the Commission finds that they do not represent a property interest which was nationalized, expropriated, or otherwise taken by Vietnam, as required for compensation under Public Law 96-606. For the foregoing reasons, the Commission concludes that the office files and relocation expenses claimed for herein do not represent compensable property losses and must be denied.

To recapitulate, the Commission has determined that the claimant sustained the following compensable property losses in connection with its branch office in Saigon:

Office equipment, furniture, and library	\$6,537.64
Leasehold improvements	\$9,015.79
Citroen automobile	\$495.48
Refundable deposits	\$7,629.43
Certificates of deposit	\$13,790.23
Accounts Receivable	\$6,394.66
TOTAL	\$43,863.23

Accordingly, the Commission determines that KAPLAN RUSSIN & VECCHI is entitled to an award in the principal amount of \$43,863.23.

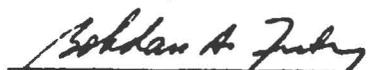
The Commission has concluded that in granting awards on claims under section 703 of Title VII of the Act, for the nationalization, expropriation, or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to the date of settlement. (See Claim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

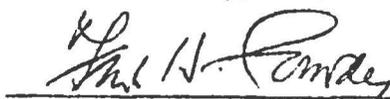
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Claimant, KAPLAN RUSSIN & VECCHI, is therefore entitled to an award in the principal amount of Forty-Three Thousand Eight Hundred Sixty-Three Dollars and Twenty-Three Cents (\$43,863.23), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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

AUG 22 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.)