

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

IN THE MATTER OF THE CLAIM OF

SAMUEL E. GOODWIN

Claim No. V-0340

Decision No. V-0481

Hearing on the Record held on **JAN 22 1986**

FINAL DECISION

This claim in the initial amount of \$18,252.00 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 and a bank account in Saigon.

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... ."

By Proposed Decision dated August 22, 1985, the Commission granted the claimant an award in the principal amount of \$7,500.00 for assorted household goods and personal effects he owned in Saigon which the Commission found were taken by Vietnam as of May 1, 1975. Other parts of the claim, however, based on a bank account at the Saigon branch of the Chase Manhattan Bank, some Vietnamese currency, and some attorney fees, were denied. With regard to the bank account, the record included a photocopy of the bank book indicating that the account was held in the name

of a Vietnamese national whom the claimant married shortly before his evacuation from Saigon in April 1975. The Commission held that the bank account would have been taken by Vietnam as of May 1, 1975, at which time the owner--claimant's wife--was not a United States citizen, as required for compensation under the Act. With regard to the Vietnamese currency, claimant had asserted losses of 35,000 "dong." As the record contained no supporting evidence or information, such as where the money was located and the circumstances of its loss, the Commission held that there was no basis to grant an award for this item. With regard to the attorney fees, claimant asserted that they had been paid to get his wife out of South Vietnam and totalled \$3,390.00. The Commission found that this item did not represent any type of property interest that was nationalized, expropriated, or otherwise taken by Vietnam, as required for compensation under the Act.

On August 26, 1985, Nicholas S. Roosevelt, a public accountant, filed an objection on behalf of claimant with respect to (1) the Commission's valuation of the household goods and personal effects and (2) its denial of the claim for the Vietnamese currency.

With regard to the valuation of claimant's personalty in the Proposed Decision, the only evidence in the record were the dollar figures asserted by the claimant in his inventory--adding up \$9,886.00--which he indicated represented the replacement costs of the various items. The Commission held that the actual value of the property at the time of loss, not its replacement value, was the proper basis for determining an award. No pertinent information in this regard, such as the approximate dates of purchase and purchase prices, had been submitted by the claimant. Accordingly, the Commission determined that the total amount asserted by the claimant should be reduced by about 25% as a reasonable estimate of the value of the subject property at the time of loss.

In his letter of August 26, 1985, Mr. Roosevelt stated that he was enclosing the dates of purchase and purchase prices of the subject household goods and personal effects. What he actually submitted, however, was simply another copy of the inventory already in the claim file (Exhibit B) listing each item and its "cost". Mr. Roosevelt went on to write that:

"To the best of Mr. Goodwin's knowledge the prices listed on Exhibit B are 1975 replacement prices. I feel that you are considering these replacement costs in the year 1984. Therefore to reduce the cost by 25% is not necessary to arrive at the actual value of the subject property at the time of loss. Dates of purchase were between 1972 and 1974."

Thus, Mr. Roosevelt and the claimant have confirmed that the dollar values listed in the inventory represent 1975 replacement costs, and the record is still devoid of information as to the purchase prices of the subject property. Mr. Roosevelt's speculation that the Commission was "considering these replacement costs in the year 1984" is unfounded. The Commission recognized that the claimant was asserting \$9,886.00 as the replacement value of his property in 1975. In its evaluation of personal property claims in the current program, however, the Commission has consistently held that awards must be based on the actual value of the used items at the time of loss, rather than the cost of replacing such property with new items at the time of loss. As the claimant has still provided no evidence of the purchase prices of his personal property, and only a general indication that his personalty was acquired between 1972 and 1974, it is impossible for the Commission to make a precise evaluation of the claimant's property. Based on the evidence of record, the Commission considers a reduction of approximately 25% from the asserted replacement costs as representing the most reasonable estimate of the actual value of claimant's property at the time of loss.

Accordingly, the Commission hereby affirms its finding in the Proposed Decision with regard to the value of SAMUEL E. GOODWIN's personal property in Vietnam and determines that he is entitled to an award for its loss in the principal amount \$7,500.00, plus interest.

With regard to the second objection, Mr. Roosevelt submitted on behalf of the claimant 45,020 dong (or piasters) worth of South Vietnamese currency, thereby amending the original claim for 35,000 dong. While this submission does appear to establish the claimant's ownership of the subject currency, it also shows quite clearly that the particular bills and coins in question were not taken by the Vietnamese government. The Commission notes for the record that the official exchange rate of dong (piasters) to dollars at the time of the fall of South Vietnam was 755:1, so that the value of claimant's 45,020 dong would have been \$59.63 as of May 1, 1975. The Commission is aware from other documentary sources that a currency reform was carried out in South Vietnam by the new Communist regime around September 1975, whereby up to 100,000 South Vietnamese piasters were convertible into new dong at a rate of 500:1. Thus, claimant's 45,020 piasters were worth only 90 dong under the currency reform, and thereafter became worthless.

International law recognizes the sovereign right of every nation state to regulate its own currency. South Vietnamese currency had drastically depreciated in value during the last several years of the old regime, necessitating the currency reform which the Communists implemented shortly after their assumption of power. This act was within the sovereign rights of the new government, and there is no evidence in the record that the claimant was not eligible, as a matter of law, to exchange his old currency for new. The fact that MR. GOODWIN's 45,020 piasters would have been reduced to 90 new dong in September 1975 and were in fact worthless thereafter does not in and of itself give rise to a claim under international law, or under Public Law 96-606.

For the foregoing reasons, the Commission determines that the 45,020 dong (piasters) worth of South Vietnamese currency does not represent a property interest which has been nationalized, expropriated, or otherwise taken by Vietnam, as required for compensation under the Act. The Commission therefore affirms its denial of this portion of the claim.

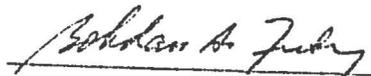
After thorough review of the claimant's two grounds of objection, the Commission concludes that the record does not warrant any change from the Proposed Decision. Accordingly, the Commission restates its award therein as its final determination of this claim.

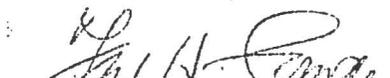
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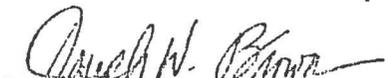
Claimant, SAMUEL E. GOODWIN, is therefore entitled to an award in the principal amount of Seven Thousand Five Hundred Dollars (\$7,500.00), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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

JAN 22 1986


Bohdan A. Futey, Chairman


Frank H. Conway, Commissioner


Joseph W. Brown, Commissioner

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

IN THE MATTER OF THE CLAIM OF

SAMUEL E. GOODWIN

Claim No. V-0340

Decision No. V-0481

PROPOSED DECISION

This claim in the initial amount of \$18,252.00 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 and a bank account in Saigon.

The claimant was born in Chester County, Pennsylvania, on January 2, 1948 and has been a lifelong United States citizen.

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 was an employee of Pacific Architects and Engineers in Saigon at the time the Communists launched their 1975 spring offensive in South Vietnam. On April 28, 1975, just before the fall of Saigon, the claimant was evacuated from South Vietnam. The claimant has submitted an itemized list of the household goods and personal effects-- including furniture, appliances, recreational items, and clothing--which he was forced to leave behind. Based on this detailed itemization, which is largely corroborated by a shipping

list prepared by the claimant in September 1974 at the time of his transfer from Danang to Saigon, the Commission finds that the claimant was the owner of the household goods and personal effects claimed for herein.

The record contains no evidence as to what became of the subject property after the claimant's evacuation from South Vietnam on April 28, 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 household goods and personal effects involved in the instant claim were taken as of May 1, 1975.

As SAMUEL E. GOODWIN 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 the itemization he submitted to the Commission along with his statement of claim, the claimant listed dollar values for each item of property, which add up to \$9,886. The claimant has subsequently advised the Commission that these figures represent replacement values for his property. The Commission holds, however, that the actual value of the subject property at the time of loss should be controlling in this claim, as in other claims which have been adjudicated in this program. The Commission wrote to the claimant asking for the approximate dates of purchase and purchase prices for his household goods and personal effects, but has received no such information from the claimant. The Commission determines, therefore, that the total amount asserted by the claimant as the replacement value of his property

should be reduced by approximately 25% to arrive at a reasonable estimate of the actual value of the subject property at the time of loss. Accordingly, the Commission finds that the claimant's household goods and personal effects were worth \$7,500 at the time of loss.

Thus, SAMUEL E. GOODWIN is entitled to an award in the principal amount \$7,500 for the loss of the above property.

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).)

The claimant also asserts the loss of a bank account at the Saigon branch of the Chase Manhattan Bank. The record includes a photocopy of the bank book indicating that the subject account number 01-200-6799, with a balance of 528,584 piasters as of April 2, 1975, was held in the name of a Vietnamese national whom the claimant married on April 5, 1975, twenty-three days before his evacuation from Saigon. In accordance with its findings in the Claim of THE PEARL S. BUCK FOUNDATION, INC., Claim No. V-0261, Decision No. V-0439, the Commission finds that the instant account would have been taken by Vietnam, within the meaning of Public Law 96-606, as of May 1, 1975, and that the dollar value of the account, based on the official exchange rate of 755:1 in effect at that time, was \$700.11. Since the bank account was not owned by a United States national on the date of loss, however, it does not represent a compensable claim under Public Law 96-606. Although the claimant asserts that all of the deposits were made from his own funds, the fact remains that he was not the owner of the subject account. Accordingly, the Commission concludes that the bank account involved in this claim must be denied.

In his statement of claim, SAMUEL E. GOODWIN also listed cash in the amount of 35,000 "dong" among his losses. It appears likely that the claimant intended to claim for 35,000 piasters, the currency of South Vietnam, since "dong" at that time was the currency solely of North Vietnam. In any event, the record contains no further evidence or information from the claimant concerning this item of his claim, such as where this money was located and the circumstances of its loss. Accordingly, the Commission concludes that this portion of the claim must be denied.

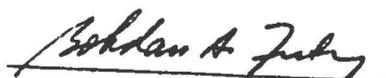
The claimant has also asserted the loss of \$3,390 worth of attorney's fees which were assertedly expended to get his wife out of South Vietnam. The Commission finds, however, that this item does not represent any type of property interest that was nationalized, expropriated, or otherwise taken by Vietnam, as required for compensation under Public Law 96-606. Accordingly, this portion of the claim must be denied as well.

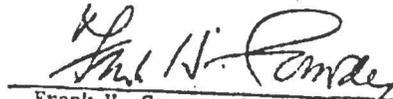
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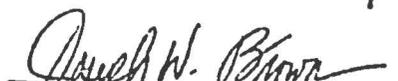
Claimant, SAMUEL E. GOODWIN, is therefore entitled to an award in the principal amount of Seven Thousand Five Hundred Dollars (\$7,500.00), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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

AUG 22 1985


Bohdan A. Futey, Chairman


Frank H. Conway, Commissioner


Joseph W. Brown, 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.)