

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

IN THE MATTER OF THE CLAIM OF

RICHARD LEE PHILLIPS
LILLIAN M. PHILLIPS

By: Robert W. Reed
The Christian and Missionary
Alliance

Claim No. V-0359

Decision No. V-0278

PROPOSED DECISION

This claim in the amount of \$2,795.00 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 in Ban Me Thuot.

Claimant, RICHARD LEE PHILLIPS, was born in the State of Oregon on April 21, 1930 and has been a lifelong citizen of the United States. Claimant, LILLIAN M. PHILLIPS, was born in India of American parents on November 11, 1931 and has also 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..."

RICHARD LEE PHILLIPS and LILLIAN M. PHILLIPS, husband and wife, were missionaries residing in Ban Me Thuot, South Vietnam, at the time the Communists launched their spring offensive against that town on March 10, 1975. Along with several other missionaries, they were captured by North Vietnamese military forces on March 12 and subsequently transferred to Hanoi, where

they were ultimately released on October 30, 1975. In their statement of claim submitted to the Commission in 1982, the claimants listed various items of personal property lost at Ban Me Thuot--including household furnishings, appliances, recreational items, and a motor vehicle--worth a total of \$2,795.00. In a letter accompanying the statement of claim, the claimants indicated that all their papers were lost at the time they were taken prisoner, so that they are unable to submit any further documentation of the subject property. Based on the entire record, the Commission finds that the list prepared by the claimants constitutes sufficient evidence to establish their ownership of the property items therein. In the absence of more precise stipulations by the claimants, the Commission concludes that they owned the subject property in equal 1/2 interests.

The record contains no evidence as to what became of the subject property after the claimants' capture by the North Vietnamese on March 12, 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 RICHARD LEE PHILLIPS and LILLIAN M. PHILLIPS were both United States citizens at the time of loss, the Commission concludes that they are entitled to awards under the provisions of Public Law 96-606.

In determining the value of the subject property, the Commission has given careful consideration to the list furnished by the claimants. The Commission finds that the \$2,795.00

asserted by the claimants is a reasonable estimate of the value of their property at the time of loss. Accordingly, the Commission determines that RICHARD LEE PHILLIPS and LILLIAN M. PHILLIPS are each entitled to an award in the principal amount of \$1,397.50.

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).)

A W A R D S

Claimant, RICHARD LEE PHILLIPS, is therefore entitled to an award in the principal amount of One Thousand Three Hundred Ninety-Seven Dollars and Fifty Cents (\$1,397.50), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

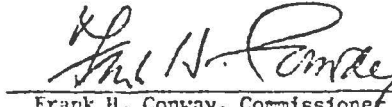
Claimant, LILLIAN M. PHILLIPS, is therefore entitled to an award in the principal amount of One Thousand Three Hundred Ninety-Seven Dollars and Fifty Cents (\$1,397.50), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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

MAR 29 1985

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


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.)