

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

IN THE MATTER OF THE CLAIM OF

DAVID EL'MAMUWALDI

Claim No. V-0397

Decision No. V-0367

FINAL DECISION

This claim in the amount of \$13,400.00 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 improved real property and personal property in Saigon and Vung Tau.

By Proposed Decision issued May 20, 1985, the Commission granted the claimant an award of \$5,000.00 for the loss of his personal property in South Vietnam, but denied the portions of his claim based on a villa in Saigon and an apartment in Vung Tau. With regard to the personal property, MR. EL'MAMUWALDI asserted in his statement of claim that it was worth \$7,100. The Commission found the amounts asserted for miscellaneous clothing, food and supplies, a motorcycle, a bicycle, tools and equipment, books and manuals, and television sets--totalling \$2,400--to be reasonable estimates of the values of such items, but the amounts asserted for household furnishings (\$2,000), stereo equipment (\$1,500), camera equipment (\$800), and firearms (\$400) to be somewhat high in view of the absence of detailed inventories or other pertinent information about these items. Accordingly, the Commission considered \$5,000 a reasonable estimate of the total value of claimant's personal property at the time of loss. With regard to the subject real property, the record contained no documentary evidence that claimant was the owner of a villa at no. 343/33 Nguyen Minh Chieu, Tah Binh, in Saigon, or an apartment on Vo Giap Street in Vung Tau.

The claimant objected to the Commission's Proposed Decision by letter dated June 4, 1985, and provided additional information about the property involved herein. The claimant has also submitted further evidence in the form of a receipt from the United California Bank confirming the transfer of \$2,700 to his account at the Bank of America in Saigon, as well as a sworn statement by Ronald M. Naumann, a fellow employee of the claimant's in South Vietnam, concerning the real and personal property involved herein.

With regard to the subject real property, claimant asserts that the \$2,700 transferred in February 1974 to his account at the Bank of America in Saigon was used to purchase the villa at no. 343/33 Nguyen Minh Chieu. However, the record still contains no primary evidence--such as a contract of purchase or a land record extract--that these funds were actually used for that purpose. The only supporting documentation is the statement of Ronald M. Naumann, who indicated that he was a fellow employee of the claimant's at ITT Federal Electric Corporation in South Vietnam from 1970 until April 1975. Although Mr. Naumann stated that the claimant "owned a two-story, two-bedroom, two-bath refurbished home" in Saigon and "also maintained a residence in Vung Tau," Mr. Naumann provided no substantive details such as when and from whom such property was acquired and the basis for his knowledge that this property was owned, rather than leased or rented, by the claimant. The Commission is aware that the former South Vietnamese Government tightly controlled the acquisition of real property by Americans and other foreigners, requiring that such persons receive governmental approval before they could obtain legal title. The record in this claim contains no evidence that DAVID EL'MAMUWALDI applied for or received the requisite governmental permission to acquire the subject house in Saigon or apartment in Vung Tau.

The Commission has held in the Claim of WILLIAM A. YERABEK, Claim No. V-0167, Decision No. V-0257, that if there is sufficient evidence to establish the purchase by a United States national of real property in South Vietnam in the name of a Vietnamese national, the Commission may find that the United States national is the beneficial owner of the real property to the extent of his contribution to the purchase price. In the instant claim, however, there is no evidence that the subject villa in Saigon or apartment in Vung Tau were purchased in the name of a Vietnamese national, and the claimant has not alleged that such was the case. Accordingly, there is no basis in the record for the Commission to find that DAVID EL'MAMUWALDI held any beneficial interest(s) in the subject Saigon and Vung Tau properties.

After thorough review of the entire record in this claim, the Commission finds that the evidence still fails to establish and DAVID EL'MAMUWALDI held legal title to or any beneficial interest in the villa at no. 343/33 Nguyen Minh Chieu, Tah Binh, in Saigon, or an apartment on Vo Giap Street in Vung Tau. The Commission therefore affirms its original denial of these portions of the claim.

With regard to the subject personal property, the claimant provided a much more detailed inventory of his household furnishings, stereo equipment, camera equipment, and firearms in his letter of June 4, 1985. Based on this additional information, the Commission concludes that the amounts asserted for these items by MR. EL'MAMUWALDI in his statement of claim--totalling \$4,700--represent reasonable estimates of the value of this property at the time of loss in 1975. Together with the \$2,400 determined by the Commission in its Proposed Decision to be the value of claimant's other items of personalty, the Commission now

finds that DAVID EL'MAMUWALDI's personal property in South Vietnam was worth a total of \$7,100 at the time of loss on May 1, 1975.

Accordingly, the Commission concludes that the previous award to the claimant of \$5,000.00 should be withdrawn in favor of a new award in the principal amount of \$7,100.00.

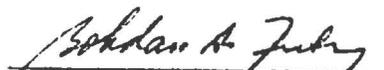
The Commission has concluded that in granting awards on claims under section 703 of Title VII of the Act, for the nationalization, expropriation, or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to the date of settlement. (See Claim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

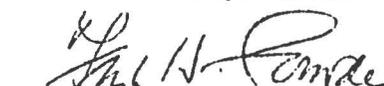
A W A R D

Claimant, DAVID EL'MAMUWALDI, is therefore entitled to an award in the principal amount of Seven Thousand One Hundred Dollars (\$7,100.00), 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.

NOV 19 1985

  
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

DAVID EL'MAMUWALDI

Claim No. V-0397

Decision No. V-0367

PROPOSED DECISION

This claim in the amount of \$13,400.00 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 improved real property and personal property in Saigon and Vung Tau.

The claimant was born in the State of Georgia on November 7, 1941 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 claimant asserts that he owned a 2-story villa at no. 343/33 Nguyen Minh Chieu, Tah Binh, in Saigon, as well as a one-bedroom apartment on Vo Giap Street in Vung Tau. The claimant indicated in his statement of claim, submitted to the Commission in 1982, that these properties were acquired by "legal purchase," although he had no documentary evidence thereof and provided the Commission with no further details about these acquisitions. The Commission subsequently sent letters to the

claimant on August 1, 1984 and March 8, 1985 asking for the submission of documentary evidence or, if no such evidence was available, for detailed affidavit(s) from the claimant or other knowledgeable persons with details as to when the subject properties were acquired, from whom, and any other pertinent information. While the Commission has received a short response from the claimant, none of the evidence or information requested by the Commission in its to previous letters was submitted. Based on the present record, therefore, the Commission concludes that the claimant has not established his ownership of any real property in South Vietnam. Accordingly, the portion of this claim based on the villa in Saigon and apartment in Vung Tau must be denied.

As for the personal property claimed for herein, the claimant provided a list in his 1982 statement of claim of various items which he indicates he owned in Saigon and Vung Tau. This property included, among other things, furniture and other household goods, clothing, various recreational items, and some firearms. The claimant indicates that he had to leave all of his personal property behind when he was evacuated from South Vietnam in April 1975 and was unable to bring with him any documentary evidence pertaining to this property. Based on the entire record, the Commission finds that the list prepared by the claimant constitutes sufficient evidence to establish his ownership of the personal property involved in this claim.

The record contains no evidence as to what became of the subject personal property after the claimant's departure from South Vietnam 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 Commis-

sion 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 personal property involved in the instant claim was taken as of May 1, 1975.

As the claimant 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.

As evidence of the value of the subject personal property, the record includes only the information provided by the claimant in his 1982 statement of claim. The claimant states that all of his property was acquired during the years 1970-1975. He has listed certain dollar figures next to the various categories of property, but not indicated to the Commission whether they represent original purchase prices or estimated values at the time of loss. After careful consideration of the claimant's list, the Commission considers the \$700.00 for miscellaneous clothing, \$300.00 for food and supplies, \$500.00 for a motorcycle, \$100.00 for a bicycle, \$250.00 for tools and equipment, \$150.00 for books and manuals, and \$400.00 for "television sets,"--a total of \$2,400--as reasonable estimates of the values of these items. As for household furnishings, stereo equipment, camera equipment, and firearms in the asserted amounts of \$2,000.00, \$1,500.00, \$800.00, and \$400.00, respectively, the Commission considers these estimates somewhat high insofar as the claimant has furnished no detailed inventory of this property or any information about the basis for the asserted values. Based on the entire record, the Commission determines that the claimant's personal property was worth a total of \$5,000.00 at the time of loss in 1975.

Accordingly, the Commission determines that DAVID EL'MAMUWALDI is entitled to an award in the principal amount of \$5,000.00.

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 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).)

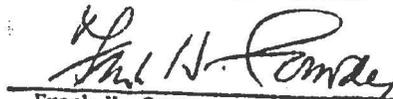
AWARD

Claimant, DAVID EL'MAMUWALDI, is therefore entitled to an award in the principal amount of Five Thousand Dollars (\$5,000.00), 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

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.)