

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

IN THE MATTER OF THE CLAIM OF

CHARLIE E. HALL

Claim No. V-0534

Decision No. V-0273

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

FINAL DECISION

This claim in the amount of \$45,000.00 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 a house and personal property at no. 210/8 Le Van Duyet 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 March 29, 1985, the Commission denied this claim on the ground that CHARLIE E. HALL failed to meet the filing deadline. The Commission noted that the Vietnam claims program commenced on February 26, 1981 pursuant to a general notice published in the Federal Register, in accordance with the statutory requirements of Public Law 96-606, and that the two-year filing period expired on February 25, 1983. Since CHARLIE E. HALL did not prepare his statement of claim and send

it to the Commission until after that latter date, the Commission held that it had no authority to grant an award. The Commission therefore denied the claim for failure to meet the filing deadline, without making determinations with respect to any other substantive aspects of the claim.

The claimant objected to the Proposed Decision in a letter to the Commission postmarked April 18, 1985. MR. HALL asserted that he had filed a claim with the Commission on September 12, 1975 and received a response around November 1976 advising that his claim had been forwarded to another government office. Over the next several years CHARLIE E. HALL was evidently employed some or all of the time abroad, during which time he maintains that he received no further communication from the Foreign Claims Settlement Commission or any other government agency, nor did he receive any information about a Vietnam claims program in any U.S. embassy or other government office overseas. MR. HALL asserted that only after "calling all over Washington to track down my claim and obtain a status on it" did he find out about the current Vietnam program, after which the instant claim was filed.

A review of the record confirms that CHARLIE E. HALL did indeed write a letter to the Commission on September 12, 1975 in which he indicated that he had worked for ITT/FEC (Federal Electric Corporation) in Saigon and had abandoned certain property when he was evacuated from South Vietnam on April 24, 1975. Enclosed with the letter was an official claim form for Department of State, AID, and USIA employees which had been filled out by MR. HALL with the obvious intention of filing a claim with the Commission. Since the Foreign Claims Settlement Commission had no authority to adjudicate claims against Vietnam at that time, the subject letter and claim form were referred to the State Department's Office of Special Consular Services, as MR. HALL was advised in a letter from the Commission dated September 18, 1975. On October 22, 1976 CHARLIE E. HALL wrote to

the Commission again complaining that no action had been taken on his claim. The Commission referred this letter to the Office of Special Consular Services as well, and wrote to MR. HALL on November 4, 1976 advising that the Commission still had no authority to consider his claim. CHARLIE E. HALL was evidently ineligible for compensation from the Department of State since he had not worked for State, AID, or USIA, but rather for a private corporation in South Vietnam.

After the Commission's second letter to CHARLIE E. HALL dated November 4, 1976, the record reveals no further communications until MR. HALL telephoned the Foreign Claims Settlement Commission on April 19, 1984. It does not appear from the Commission's files that MR. HALL was advised of the commencement of the Vietnam program in 1981 or at any time prior to the filing deadline in 1983. In the telephone conversation of April 1984, MR. HALL was advised by the Commission that the filing deadline had passed but that he could nevertheless submit a statement of claim to obtain a formal determination from the Commission. The instant claim was filed thereafter, and denied in the Commission's Proposed Decision of March 29, 1985.

The threshold question for the Commission in considering the claimant's objection, therefore, is whether this claim may properly be considered on its merits inasmuch as the statement of claim was submitted subsequent to the filing deadline. As set forth in Section 703 of Public Law 96-606 (Title VII of the International Claims Settlement Act of 1949, as amended), the Commission had a duty to give public notice of the filing period for Vietnam claims by publication in the Federal Register. As noted on page 1 of this Decision, such public notice was given. However, Section 715(a) of the Act, through its incorporation of subsection 4(b) of title 1 of the International Claims Settlement Act of 1949, imposed a further limited duty of personal notice to any person appearing in State Department records as having indicated an intention to file a claim. CHARLIE E. HALL clearly

indicated his intention to file a claim against Vietnam in his correspondence with the Commission in 1975 and 1976, which was referred to the Department of State for further attention. Thus, MR. HALL should have been personally notified by the Commission of the commencement of the current program. However, the Commission's files do not indicate that personal notice was sent to MR. HALL regarding the Vietnam claims program at any time between the enactment of Public Law 96-606 and the expiration of the filing period. In view of the statutory requirement, and the evidence that no personal notice was sent to or received by MR. HALL prior to his telephone call to the Commission in April 1984, the Commission concludes that justice can best be served by accepting the instant claim of CHARLIE E. HALL as timely filed and for consideration on the merits. The Commission also notes that the adjudication of this claim in no way impedes the determination of any other claim filed in this program.

Upon review of the entire record, the Commission notes that the only evidence concerning CHARLIE E. HALL's alleged ownership of the subject house at no. 210/8 Le Van Duyet in Saigon is an undocumented assertion at the end of a 4-page schedule of property which MR. HALL prepared in connection with the claim he filed with the Department of State in 1975. According to the claimant, he and his wife purchased the house in 1971 for \$12,000 and were the joint owners thereof. MR. HALL described the house in his 1975 claim as including two stores, seven rooms, and one bath. However, the record contains no documentary evidence of the claimant's ownership interest, such as the contract of purchase, a land record extract, or any other materials. Although MR. HALL advised the Commission in a telephone conversation on April 23, 1985 that he had evidence of his ownership, and was specifically requested to submit such evidence in a letter from the Commission dated October 11, 1985, the Commission has received no further materials from the claimant. Based on the evidence of record,

therefore, the Commission finds that the claimant has failed to establish his ownership interest in the subject house at no. 210/8 Le Van Duyet in Saigon. Accordingly, the Commission affirms its denial of this portion of the claim.

As for the personal property claimed for herein, the schedule of property prepared by MR. HALL in connection with his 1975 claim with the Department of State provides a detailed itemization of the household goods and other personal effects which he assertedly owned in Saigon. MR. HALL provided dates of purchase and purchase prices for each item of property, which included various household furnishings and appliances, art objects, recreational items, and clothing. With regard to this latter category of property, only about half of the items listed were men's apparel, while the remainder were various articles of women's clothing which clearly would not have belonged to him. Based on this detailed inventory, and consistent with the Commission's decisions on other claims for personal property in this program, the Commission finds that CHARLIE E. HALL was the owner of the items of personalty listed in the schedule of property, with the exception of the aforementioned articles of women's clothing.

The record contains no evidence as to what became of this personal property after the claimant's evacuation from Saigon on April 24, 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 claimant's personal property was taken as of May 1, 1975.

CHARLIE E. HALL has submitted evidence that he was born in the State of Arkansas on September 5, 1946 and has been a lifelong U.S. citizen. His personal property in Saigon, therefore, was owned by a United States citizen at the time of loss in 1975, as required for compensation under Public Law 96-606. Accordingly, the Commission holds that CHARLIE E. HALL is entitled to an award for his personal property losses in South Vietnam. With regard to the articles of women's clothing presumably owned by the claimant's wife, the Commission holds that they do not represent compensable losses as the record indicates that MR. HALL's wife was not a United States citizen at the time of loss in 1975.

In determining the value of the claimant's personal property, the Commission has given careful consideration to the information provided by MR. HALL in his schedule of property. The claimant has given purchase prices for each item which add up to \$16,601.80, as well as values for each item at the time of loss, the method(s) of calculation for which are sometimes unclear, adding up to \$14,338.80. The Commission has made its own study of the schedule of property, however, on the basis of which it makes the following determinations. With regard to the two art objects listed on page 2 (the Buddha head and painting) with alleged purchase prices totalling \$990.00, and the five art objects listed on page 4 (the vases and silk screen) with alleged purchase prices totalling \$1,410.00, the Commission does not feel that the record can sustain such valuations without supporting documentation. As the claimant has submitted no further evidence of the value of these art objects, the Commission considers \$1,200--1/2 of the \$2,400 alleged by the claimant --to be a reasonable estimate of their value at the time of loss. As for the articles of clothing on page 3, the Commission has deleted all items listing women's clothing, in whole or in part, leaving only men's clothing for which the claimant has asserted a total value of a little more than \$1,000 at the time of loss. The

Commission determines that the claimant's clothing losses amounted to \$1,000.00. With regard to all of the rest of the property listed in the 4-page inventory, the Commission has taken the purchase price given by the claimant and depreciated each item acquired before 1975 at 5% annually from the year of purchase to 1975, the year of loss. Calculated as such, the value of this property would have amounted to \$9,231.00. Thus, the total losses of personal property sustained by the claimant add up to \$11,431.00.

The Commission determines, therefore, that CHARLIE E. HALL is entitled to an award in the principal amount of \$11,431.00.

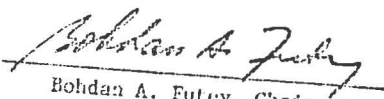
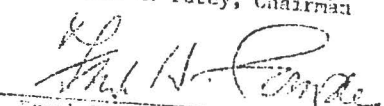
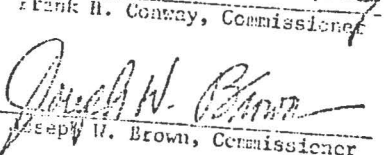
The Commission has concluded that in granting awards on claims under Section 703 of Title VII of the Act, for the nationalization, expropriation, or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to the date of settlement. (See Claim of BETTY JANET MITCHELL, Claim No. V-0538, Decision V-0259 (1984).)

A W A R D

Claimant, CHARLIE E. HALL, is therefore entitled to an award in the principal amount of Eleven Thousand Four Hundred Thirty-One Dollars (\$11,431.00), 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. Fuley, Chairman

Frank H. Conway, Commissioner

Joseph W. Brown, Commissioner

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IN THE MATTER OF THE CLAIM OF

CHARLIE E. HALL

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PROPOSED DECISION

This claim in the amount of \$45,000.00 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 a house and personal property at No. 210/8 Le Van Duyet in Saigon.

The claimant states that he has been a United States citizen since birth, although the record contains no evidence in this regard.

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. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than a period of two years beginning on the date of such publication) within sixty days after the date of the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later." [Emphasis added.]

Title VII of the International Claims Settlement Act of 1949 was enacted by Public Law 96-606 on December 28, 1980, after which the Commission published a notice in the Federal Register of the commencement of the Vietnam claims program on February 26, 1981. The filing deadline was originally set at July 31, 1982, but was subsequently extended to October 31, 1982 and finally to February 25, 1983. Thus, the filing period lasted for a full two years, which was the statutory maximum set forth in section 703 of the Act. The Commission has no authority under the law to extend the filing period beyond February 25, 1983.


The instant claim is dated February 18, 1985 and was received at the Commission on February 22, 1985. Since the two-year filing period provided under the statute had already expired, this claim was not timely filed. Under Public Law 96-606, therefore, the Commission is not authorized to grant an award.

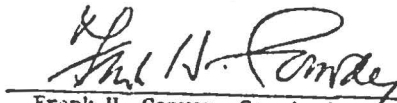
Accordingly, the Commission determines that this claim must be and it hereby is denied.

The Commission finds it unnecessary to make determinations with respect to other aspects of the claim.

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

MAR 29 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.)