

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

IN THE MATTER OF THE CLAIM OF

KLAUS CONRAD

Claim No. V-0182

Decision No. V-0470

PROPOSED DECISION

This claim in the amended amount of \$97,954.00 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 business property and personal property in Saigon.

The claimant acquired United States citizenship by naturalization on September 17, 1963.

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... ."

Based on the evidence of record, the Commission finds that the claimant was a 50% owner of a business enterprise in Saigon known as the "Arirang-House," which featured a restaurant specializing in Korean cuisine as well as a night club. The business was located at no. 19-21 Nguyen-Hue. The record also indicates that the claimant owned assorted personal property in Saigon, including household furniture and appliances, art objects, recreational items, articles of clothing, and an

automobile. KLAUS CONRAD has advised the Commission that all of his property was lost when Saigon fell to the Communists at the end of April 1975.

The record contains no specific evidence as to what became of the claimant's property after the Communists captured Saigon. The Commission notes, however, that the Saigon-Gia Dinh Military Management Committee issued a communique on May 1, 1975, the day after the fall of Saigon, ordering the closure of bars, dance halls, and all other "American type" establishments. The "Arirang-House" may well have come under the purview of this communique. Furthermore, the Commission has already 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 on or about May 1, 1975, the date the Communists completed their occupation of South Vietnam, in the absence of specific evidence of an alternative date of taking. (See Claim of BETTY JANET MITCHELL, Claim No. V-0358, Decision No. V-0259 (1984).) Based on the foregoing authority, the Commission finds that all of the claimant's property in Saigon was taken by the Vietnamese government as of May 1, 1975.

As KLAUS CONRAD was a United States citizen at the time of loss, the Commission concludes that he is entitled to an award under Public Law 96-606.

As evidence of the value of the "Arirang-House," the claimant has submitted photographs of the restaurant and night club as well as a 3-page inventory of their contents, stamped April 1, 1975. In the inventory the claimant has given the quantity and purchase price per unit of each item of property, which add up to \$90,750.78. In reviewing the inventory, however, the Commission feels that some of the higher values asserted by the claimant are unsupportable in view of the lack of corroborating documentation. Considering the quantities involved and allowing for some depreciation after their purchase, the Commis-

sion determines that, as of the date of loss on May 1, 1975, the tables and chairs, room dividers, and bar in the restaurant were worth \$5,000, \$3,000, and \$1,000, respectively; the "silverware sets" in the kitchen were worth \$1,000; the bar, organ, and tables and chairs in the night club were worth \$1,000, \$1,000, and \$4,000, respectively; and the carpet in the office was worth \$800. The foregoing figures add up to \$16,800. As for the rest of the items in the inventory, whose purchase prices as listed by the claimant add up to \$51,369, the Commission determines that all such items should be depreciated by 5% to the date of loss. These items would therefore have been worth \$48,800.

The Commission determines, therefore, that the contents of the "Arirang-House" were worth \$65,600 at the time of loss, in which the claimant held a one-half interest of \$32,800.

The his statement of claim, KLAUS CONRAD also asserted the loss of \$2,920 worth of accounts receivable, \$14,000 worth of remodeling costs, and \$7,500 for a one-year lease. The record contains no documentary evidence of any accounts receivable or remodeling costs, however, nor any further information from the claimant detailing these items of the claim. As for the alleged one-year lease, the only evidence in the record is a photocopy of a 6-month lease for the use of the subject premises at no. 19-21 Nguyen-Hue in Saigon from August 28, 1974 to February 28, 1975. The document in the claim file is a receipt to the claimant's business partner indicating that 2,100,000 piasters had been paid for the lease. This lease expired before the fall of Saigon, however, and there is no further documentation or information indicating the duration or cost of any subsequent lease. Thus, the record fails to establish the claimant's ownership interest in and the value of any leasehold which was the subject of a taking by Vietnam.

For the foregoing reasons, the Commission concludes that the claimant has failed to establish the compensability of the accounts receivable, remodeling costs, and one-year lease claimed

for herein. Accordingly, the Commission concludes that the portion of this claim based on these additional business assets must be denied.

With regard to the claimant's household goods and other personal effects, the Commission has scrutinized the information he provided in the 7-page inventory. While most of the values asserted therein seem reasonable, the Commission feels that a few of the values, unsupported by any documentary evidence, cannot be sustained on the present record. These items include the nineteen pictures (\$1,295) and four carpets (\$1,900) listed on page 2, the two ivory carvings (\$1,250) listed on page 3, as well as the two bracelets (\$800) and watch (\$900) listed on page 6--for a total value of \$6,145, according to the claimant. The Commission does not feel that the record warrants a finding of more than \$3,000 as the total value of the foregoing property at the time of loss. As for the dog, which the claimant has listed on page 1 at a figure of \$250, the Commission does not feel that the record warrants a finding of more than \$50 as the value thereof at the time of loss. The claimant has listed various articles of clothing on pages 4-7 of his inventory with values totalling \$2,067. The Commission determines that \$1,000 is a reasonable estimate of the value of this property at the time of loss. With regard to the rest of the items of property listed in the inventory, whose values as asserted by the claimant add up to \$15,697, the Commission has taken the claimant's alleged values and depreciated them at 5% annually for each item purchased before 1975 from the year of purchase to the year of loss, with the exception of those items listed by the claimant as having been purchased "continuously," which the Commission has depreciated uniformly at 25%. Calculated as such, the value of the remaining property items listed in the inventory would have been \$14,140 at the time of loss.

Thus, the Commission determines that the claimant's household goods and personal effects consisted of \$3,000 worth of art objects and jewelry, \$1,000 worth of clothing, a \$50 dollar dog, and \$14,140 worth of additional property--for a total of \$18,190.

With regard to the Fiat automobile, which the registration certificate identified as a 4-cylinder sportscar, the claimant asserts that it was a 1969 model with an appraised value of \$4,000. The record contains no documentary evidence in support of this alleged value. According to the National Automobile Dealers Association Official Used Car Guide for May 1975, the average retail prices for 1969 Fiats ranged from \$375 to \$1,525 at that time. In view of this value range and the paucity of evidence submitted by the claimant, the Commission does not feel that the record warrants a finding of more than \$1,000 as the value of the subject automobile at the time of loss.

To recapitulate, the Commission has determined that the claimant sustained the following property losses in Saigon as of May 1, 1975:

"Arirang-House" restaurant and night club	\$32,800.00
Household goods and personal effects	\$18,190.00
1969 Fiat automobile	\$1,000.00
TOTAL	\$51,990.00

Accordingly, the Commission finds that KLAUS CONRAD is entitled to an award in the principal amount of \$51,990.00.

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

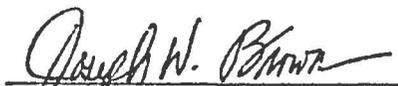
Claimant, KLAUS CONRAD, is therefore entitled to an award in the principal amount of Fifty-One Thousand Nine Hundred Ninety Dollars (\$51,990.00), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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

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.)