

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

IN THE MATTER OF THE CLAIM OF

NANCY T. NOHON
MARIE CHRISTINE BUI
LAURE CALUWAERT

Claim No. V-0387

Decision No. V-0482

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

FINAL DECISION

This claim in the amount of \$727,406.00 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 real property, business property, and personalty in South Vietnam.

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 claimant, NANCY T. NOHON, an award in the principal amount of \$46,000.00--comprised of \$36,000 for a house and land at no. 18 Duy Tan Street in Saigon and \$10,000 for various items of personal property including antique furniture and curios, paintings, "knick knacks," jewels, carpenter tools, and certain financial instruments--all of which were found to have been taken by Vietnam as of May 1, 1975. Claim was also made for a one-

fifth interest in a house and land at no. 143 Cong Ly Street in Saigon; a one-fifth interest in a rice mill located on 15,000 square meters of land in Khanh Hoi and Vinh Hoi, Saigon; 55 hectares of coconut groves and rice paddies in the villages of Phu An Hoa, Giao Long, and Quoi Son, town of Kien Hoa; various Agrarian Reform bonds, Treasury bonds, certificates of deposit, bank accounts, and shares of stock; and an automobile. The Commission held that the claimant had failed to establish her ownership of any of the foregoing items and therefore denied these parts of the claim. With regard to some of these property interests the record contained Vietnamese-language documentation, but the claimant had failed to submit English translations thereof. MARIE CHRISTINE BUI and LAURE CALUWAERT are the daughter and granddaughter, respectively, of NANCY T. NOHON and have no interest in any of the property involved in this claim.

In its Proposed Decision the Commission also adjudicated the companion claim filed by certain relatives of NANCY T. NOHON (Claim of HELEN TUYET COE, JANINE MAI COE, JOHN SON COE, and JAMES KIM COE, Claim No. V-0396) for other property interests in South Vietnam. The Commission denied that claim in its entirety on the grounds that the record failed to establish the claimants' ownership and/or the value of any property which was the subject of a taking by Vietnam. As no objection was filed by any of the claimants, the Proposed Decision in Claim No. V-0396 was entered as the Commission's Final Decision on October 15, 1985.

By letter dated September 2, 1985, however, NANCY T. NOHON objected to the Commission's Proposed Decision in Claim No. V-0387. She set forth the grounds of her objection in a follow-up letter dated October 21, 1985, and submitted therewith English translations of numerous Vietnamese-language documents which had not been previously translated. No new Vietnamese-language materials were submitted.

Taking the objections in the order presented by the claimant, the Commission makes the following determinations with regard to the property interests involved herein.

MS. NOHON asserts that the Commission undervalued her property at no. 18 Duy Tan Street in Saigon, and that she should be entitled to \$25,000 more. The claimant cited evidence previously submitted which was thoroughly considered by the Commission prior to the issuance of the Proposed Decision. Absent any further documentation, the Commission finds no basis to alter its previous evaluation. Accordingly, the Commission affirms its determination in the Proposed Decision that the subject house and land had a value of \$36,000 at the time of loss.

MS. NOHON cited the 100 shares of stock she allegedly held in the "Dai Nam Bao Hiem" insurance company, thereby giving her an indirect interest in a Saigon apartment building allegedly owned by the company. Claimant submitted no new documentation, but referred the Commission once again to her letter of September 16, 1984 outlining this part of her claim. MS. NOHON also cited her alleged ownership interests in the house and land at no. 143 Cong Ly Street in Saigon and the rice mill in Khanh Hoi and Vinh Hoi, Saigon, and referred the Commission once again to her letter of November 15, 1984 outlining the pertinent information with regard to these parts of her claim. The Commission previously held that the record failed to establish the claimant's ownership interests in the foregoing properties, and no new evidentiary materials have been submitted. Accordingly, the Commission finds no basis to alter the findings of the Proposed Decision and hereby affirms its denial of these parts of the claim.

NANCY T. NOHON has now submitted English translations of land record extracts and recordation documents previously in the claim file which establish that she became the registered owner on December 12, 1960 of certain agricultural properties which had

been conveyed to her by gift from her parents. The subject property, described in the pertinent documentation as "rice fields and coconut plantations," consisted of three tracts of land in the town of Kien Hoa with the following areas and locations:

- (1) 3.521 hectares in the village of Phu An Hoa.
- (2) 15.770 hectares in the village of Giao Long.
- (3) 17.040 hectares in the village of Giao Long.

36.331 hectares TOTAL

The record contains no evidence as to what became of the above property after MS. NOHON's departure from South Vietnam on April 23, 1975. In accordance with its holdings in the Proposed Decision with regard to the claimant's residential property and personalty in Saigon, the Commission finds that the subject agricultural land would have been taken by Communist authorities as of May 1, 1975, the date the Communists completed their occupation of South Vietnam.

In her statement of claim, in which she asserted the loss of 55 hectares of "coconut groves and rice paddies," NANCY T. NOHON estimated that the subject property was worth \$164,000 at the time of loss, or approximately \$3,000 per hectare. (As there are approximately 2.5 acres in a hectare, the foregoing figure would work out to about \$1,200/acre.) However, the record contains no evidence in support of such a high valuation. The only probative evidence in the claim file is the documentation pertaining to the compensation MS. NOHON received from the old South Vietnamese regime for another 15.743 hectares of rice fields and coconut groves in the villages of Giao Long and Quoi Son, town of Kien Hoa, which were expropriated as part of a land reform program in the early 1970's. The claimant's compensation was in the form of cash and interest-bearing bonds issued between June 1973 and January 1974 in the total amount of 3,667,408 piasters. At the applicable official exchange rates during that period which ranged from 500-575 piasters to \$1.00, MS. NOHON's compensation would have been the equivalent of roughly \$7,000. For the 15.743

hectares (around 39 acres) of land involved, that figure works out to about \$445/hectare, or \$180/acre. In the absence of any other pertinent documentation, the Commission considers the foregoing figures to be reasonable guidelines for the valuation of the claimant's 36.331 hectares (90 acres) of land that was taken by Communist authorities. Allowing for some appreciation up to the time of loss in 1975, the Commission determines that the subject land was worth approximately \$500/hectare, or \$200/acre, for a grand total of \$18,000 at the time of loss.

With regard to the Agrarian Reform bonds issued to NANCY T. NOHON in 1973 and 1974, the evidence indicates that most of them had not been redeemed by the South Vietnamese government at the time of its defeat in the spring of 1975. As listed in the documentation of record, the identification of the individual bonds and the total amount of principal and interest owing in the spring of 1975 were as follows with respect to the three tracts of land for which they were issued:

For 5.375 hectares in the village of Giao Long--

T000627626	155,909 piasters
T000627627	146,739 piasters
T000627628	137,567 piasters
T000627629	128,397 piasters
T000627630	119,224 piasters
T000627631	110,054 piasters
T000627632	100,882 piasters
<u>TOTAL</u>	<u>898,772 piasters</u>

For 7.053 hectares in the village of Giao Long--

T000788393	216,615 piasters
T000788394	204,582 piasters
T000788395	192,547 piasters
T000788396	180,315 piasters
T000788387	168,479 piasters
T000788398	156,444 piasters
T000788399	144,472 piasters
T000788400	132,377 piasters
<u>TOTAL</u>	<u>1,395,831 piasters</u>

For 3.315 hectares in the village of Quoi Son--

T000561834	95,240 piasters
T000561835	89,637 piasters
T000561836	84,035 piasters
T000561837	78,432 piasters
T000561838	72,830 piasters
T000561839	67,227 piasters
T000561840	61,625 piasters
<u>TOTAL</u>	<u>549,026 piasters</u>

The claimant has indicated that the foregoing bonds have never been redeemed by the Communist government in Vietnam. The Commission concludes, therefore, that they represent a "debt owed by Vietnam" for which an award is contemplated under subsection 702(3)(B) of Public Law 96-606. The Commission finds that the date of loss was May 1, 1975, the date the Communists completed their takeover of South Vietnam. At that time the official exchange rate of piasters to dollars was 755:1, so that the subject bonds, totalling 2,843,629 piasters, would have been worth the equivalent of \$3,766.40.

The record now establishes that the claimant held nine additional South Vietnamese government bonds. Two of these were 12-month Treasury bonds--no. 197942 in the amount of 100,000 piasters and no. 066935 in the amount of 50,000 piasters--which the claimant purchased on March 17, 1975. There is no evidence that these bonds were redeemed by the new Communist government and the Commission finds that they represent a "debt owed by Vietnam" for which an award is contemplated under subsection 702(3)(B) of the Act. The Commission concludes that the date of loss was May 1, 1975, and determines that the subject bonds in the principal amount of 150,000 piasters were worth, at the applicable official exchange rate of 755:1, the equivalent of \$198.68.

The other seven instruments were 9-month Treasury bonds in the total principal amount of 430,000 piasters, which matured on April 22, 1975, earning another 77,400 piasters of interest. According to the documentation of record, the resulting sum of 507,400 piasters was transferred by check from the South Vietnamese Treasury to the claimant's bank account at the Vietnam Ngan-Hang in Saigon. As indicated in a bank statement from the Vietnam Ngan-Hang, dated April 22, 1975, a total of 627,500 piasters were deposited on that date into account no. 3601 in the name of NANCY T. NOHON. Based on the foregoing evidence, the Commission concludes that the seven Treasury bonds which matured on April 22, 1975 no longer represented a "debt owed by Vietnam"

after that date, and thus do not represent a compensable property interest within the meaning of the Act. Accordingly, the Commission affirms its denial of this portion of the claim.

As for the claimant's bank account no. 3601 at the Vietnam Ngan-Hang, the statement of April 22, 1975 listed a balance of 768,061 piasters. The Commission has found that all bank accounts in South Vietnam which were owned by persons residing outside of the country at the time of the old regime's collapse would have been taken over by the new Communist authorities as of May 1, 1975. (See Claim of PEARL S. BUCK FOUNDATION, INC., Claim No. V-0261, Decision No. V-0439 (1985).) The Commission concludes, therefore, that NANCY T. NOHON's account no. 3601 at the Vietnam Ngan-Hang in Saigon was taken on May 1, 1975. The Commission finds that the account had a balance of 768,061 piasters at the time of loss which, at the official exchange rate of 755:1 prevailing at that time, would have been the equivalent of \$1,017.30.

There is evidence of another account held by the claimant at the Banque Nationale de Paris, in Saigon. The record includes a bank statement which appears to indicate that NANCY T. NOHON opened a savings account, no. 700851, at the foregoing bank with a deposit of 200,000 piasters on May 8, 1974. While claimant has asserted a loss in this amount, she has submitted no subsequent bank statements or other evidence that the account still held 200,000 piasters at the time of South Vietnam's collapse one year later. Based solely on the evidence of a deposit in the amount of 200,000 piasters in May 1974, the Commission does not feel that the record warrants a finding that this sum was in fact still in the account and taken by Communist authorities in May 1975. Accordingly, the Commission affirms its denial of this part of the claim.

The record establishes that NANCY T. NOHON held eight certificates of deposit at the Vietnam Ngan-Hang which also matured on April 22, 1975. The bank statements in the claim file list the following certificate numbers and total piaster amounts (principal and interest) for the deposits:

50.031/2	661,333 piasters
50.031/3	529,067 piasters
50.181/4	552,500 piasters
50.181/5	619,000 piasters
50.591/1	360,500 piasters
50.591/2	360,500 piasters
50.591/3	710,000 piasters
50.591/4	710,000 piasters
<u>TOTAL</u>	<u>4,502,900 piasters</u>

The statements contain English language notations reading, "WITHDRAWAL (sic) CERTIFICATE OF DEPOSIT AND TRANSFER TO AC/3601," which the claimant has cited as evidence that the amounts due and owing were transferred into her checking account at the bank. These English notations do not appear to have been part of the original Vietnamese-language bank statements, however, but rather to have been inserted by the claimant as part of her general translation thereof. The bank statements themselves appear only to indicate the withdrawal by the claimant of her certificates of deposit, without a simultaneous transfer of the funds into her checking account. Furthermore, the record includes the previously discussed statement of account from the Vietnam Ngan-Hang with regard to the claimant's account no. 3601, which listed deposits on April 22, 1975 of only 627,500 piasters and a total balance that day of only 768,061 piasters.

After careful consideration of the pertinent documentation, the Commission remains unconvinced that the 4,502,900 piasters to which NANCY T. NOHON was entitled when her certificates of deposit matured on April 22, 1985 were in any manner the subject of a taking by Vietnam, as required for compensation under the Act. The bank statements establish only that the foregoing sum (the equivalent of \$5,964.11 at the applicable exchange rate of 755:1) was due on April 22, 1975, but do not establish that it was transferred, in whole or in part, to account no. 3601 in the Vietnam Ngan-Hang, as asserted by the claimant. For all that the

record shows, the 4.5 million piasters could have been withdrawn by NANCY T. NOHON on the due date and taken with her when she departed Vietnam the following day. The Commission concludes, therefore, that it must affirm its denial of this part of the claim based on the foregoing certificates of deposit.

The record establishes that NANCY T. NOHON held six other certificates of deposit at the Vietnam Ngan-Hang which did not mature until after her departure from Vietnam and were therefore still on deposit at the bank when Saigon fell a week later. According to the documentation of record, the identification numbers and total value at maturity (principal and interest) of the certificates were as follows:

4213 TMDK/26.818	613,250 piasters
4213 TMDK/27.072	669,000 piasters
4203 TMDK/27.968	315,750 piasters
4203 TMDK/28.038	347,325 piasters
4213 TMDK/27.672	1,115,000 piasters
4213 TMDK/28.143	2,564,000 piasters
<u>TOTAL</u>	<u>5,624,325 piasters</u>

The Commission finds that the above certificates of deposit at the Vietnam Ngan-Hang, like the claimant's bank account therein, would have been taken over by the new Communist authorities as of May 1, 1975. At the official exchange rate of 755:1 prevailing at that time, the 5,624,325 piasters worth of deposits would have been the equivalent of \$7,449.44.

The record includes copies of two dividend statements to the claimant from the Vietnam Ngan-Hang, dated March 31, 1975 and April 4, 1975, indicating that 190,000 piasters and 1,500,000 piasters had been deposited on the respective dates into her mother's (Nguyen Thanh Liem) account no. 26920 and her own account no. 3601. These dividends were evidently paid on 338 shares of stock in the bank itself, 38 of which were owned by claimant's mother (assertedly inherited by NANCY T. NOHON) and 300 of which were owned by the claimant. The record contains no evidence whatsoever as to the value of stock in the subject bank at the time of Saigon's occupation by the Communists later that spring. Accordingly, the Commission finds no basis to grant an award for the subject shares of stock in the Vietnam Ngan-Hang, and hereby affirms its denial of this part of the claim.

As for the dividends themselves, 1,500,000 piasters became part of NANCY T. NOHON's account no. 3601, much of which was withdrawn in the next several weeks, and the remaining balance of which (768,061 piasters as of April 22, 1975) has already been the subject of an award herein. The other 190,000 piasters were deposited in account no. 26920 of Nguyen Thanh Liem, which has not been claimed for herein. In any event, the record contains no evidence of the United States citizenship of the account holder or the balance in the subject account at the time of the fall of South Vietnam.

The final item of translation submitted by the claimant pertains to some shares of stock she held in a tobacco company, "J. Bastos du Vietnam." The subject document, dated December 1, 1970, records NANCY T. NOHON as the owner of 200 shares of the company, with each share worth 600 piasters at that time. The record contains no further documentation concerning this stock, however, nor any information as to the financial condition of the tobacco company at the time of the fall of South Vietnam. Thus, the Commission has no basis in the evidence of record to determine the value, if any, of the company's stock in the spring of 1975. The Commission therefore affirms its denial of this part of the claim.

No other objections were listed by the claimant in her letter of October 21, 1985, and the Commission hereby affirms its previous determinations with respect to all other parts of this claim.

To recapitulate, the Commission has now determined that claimant, NANCY T. NOHON, sustained losses in South Vietnam of the following property interests and amounts:

- | | |
|---|-------------|
| (a) residential property at no. 18
Duy Tan Street in Saigon | \$36,000.00 |
| (b) tangible personal property | \$10,000.00 |
| (c) rice fields and coconut groves
in Phu An Hoa and Giao Long, Kien Hoa | \$18,000.00 |

(d) Agarian Reform bonds (22)	\$3,766.40
(e) Treasury bonds no. 197942 and no. 066935	\$198.68
(f) bank account at the Vietnam Ngan-Hang	\$1,017.30
(g) six certificates of deposit at the <u>Vietnam Ngan Hang</u>	<u>\$7,449.44</u>
TOTAL	\$76,431.82

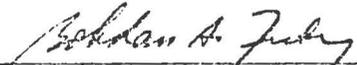
The Commission hereby withdraws its previous award in the principal amount of \$46,000.00 and determines that claimant, NANCY T. NOHON, is entitled to a new award in the principal amount of \$76,431.82.

A W A R D

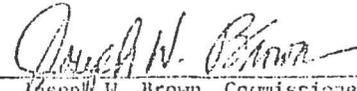
Claimant, NANCY T. NOHON, is therefore entitled to an award in the principal amount of Seventy-Six Thousand Four Hundred Thirty-One Dollars and Eighty-Two Cents (\$76,431.82), plus interest at the rate of 6% simple interest per annum from May 1, 1975 until the date of settlement.

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