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Declassified E.O. 12356 Section 3.3/NND No. 785016

ACC

10000/142/262
(VOL. 3)

0/142/262
3)

PROCLAMATIONS, GENERAL
FEB. 1944 - APR. 1946

1 6 7 2

785016

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

255A

AC/4027/L

BT/ns
27 April 1946.

SUBJECT : Regional Order No. 3 (ACC)

TO : Chief Liaison Officer (Attn: S.L.O.)
NAPLES.

1. Reference your letter L-2051 of
18th inst.

2. Para 1 of your letter refers to letter
L-2051 of 18th February which concerns General Order
No. 23.

3. The enclosure to your letter is returned,
as it is a request to your office to hasten a reply to
a certain letter sent to you on 8th February by the
G. Guardia di Finanza.

By command of Rear Admiral STONE :

MUSGRAVE THOMAS, 32
Italian Branch,
for Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

255A

AC/AC27/L

T/ns
27 April 1946.

SUBJECT : Regional Order No. 3 (ACC)

TO : Chief Liaison Officer (Attn: S.L.O.)
NAPLES.

1. Reference your letter L-2051 of
15th inst.

2. Para 1 of your letter refers to letter
L-2051 of 15th February which concerns General Order
No. 23.

3. The enclosure to your letter is returned,
as it is a request to your office to hasten a reply to
a certain letter sent to you on 8th February by the
R. Guardia di Finanza.

By command of Rear Admiral STONE :

MUSGRAVE THOMAS, 32
Italian Branch,
for Chief Legal Advisor.

HEADQUARTERS
NAPLES LIAISON GROUP
ALLIED COMMISSION
LEGAL DIVISION
APO 394

L-2051

18 April 1946

SUBJECT: Regional Order No. 3 (ACC).

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Sub-Commission
APO 394, U.S. Army.

1. Reference our letter L-2051 of 16 February 1946.
2. The attached letter relative to the above mentioned subject has been received this date by this Office.

For the Chief Liaison Officer.

Rosario A. Gaziano
ROSARIO A. GAZIANO
Captain, Infantry
Senior Legal Officer

1 Incl.
RAG/ms

253A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AP/nda.

AC/4027/L.

26 March 1946.

SUBJECT : Publication of Proclamation No. 10.

TO : AC (Senior Legal Officer) NAPLES.

1. Reference your L-2054 of 1 March 1946.
2. Due to the chaotic state in which Region 3 files were deposited in Archives no trace of the letter referred to could be found.

By Command of Rear Admiral STONE.

G.G. HANCOCK,
Lt.Col.,
Deputy Chief Legal Advisor.

30

HEADQUARTERS ALLIED COMMISSION

APO 394

Office of the Executive Commissioner

ARCHIVES BRANCH

252A

Ref. :- 16/AB.

21 March 1946

SUBJECT :- Publication of Proclamation No.10.TO :- Legal Sub-Commission, H.Q., A.C.248A
249A

Further to this office letter of even number dated 8 March 1946 and your AC/4027/L dated 6 March 1946, a search has been made through the files in question and no trace can be found of the letter referred to.

Region 3 files were deposited in Archives in a most chaotic state and we are still receiving files from other sources which originated from this Region and it will be appreciated that in the past files were deposited without even lists or reference numbers and until such files are finally listed and sorted into some order it is impossible to trace individual files.)

If it is possible for a representative of your Branch to attend this office with a view to further searching such files every facility will be granted to assist him in this matter.



29

T. ROWLANDS, Capt.
Admin. Officer.
ARCHIVES BRANCH.

LEG - SUBCOM

CLO

DCLO

Chief Comm.

CJO

Italian

CL RK

21 March 46

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/sda.

AC/4027/L.

25 March 1946.

SUBJECT : Florence Province
Provincial Orders (Prev. order
No. 3 and No. 7).

TO : Archives Division.

The enclosed copy of letter from Livorno Province
speaks for itself.

Could you please help us to answer same by supplying
the orders from archives.

ANTHONY P. NUGENT,
Major, AUS,
Chief Counsel,
for Chief Legal Advisor.

HEADQUARTERS
LIVORNO LIAISON OFFICER
ALLIED COMMISSION

2504

Livorno, Date: 20 March 1946

Ref : L.O. 1882.

Subject : Florence Province Provincial Orders.

To : HQ., Allied Commission, A.P.O. 394.
(Attn: Chief Legal Advisor - Legal Sub-Commission).

1. The following letter has been received from the Procura del Regno of Pisa:

" For a pending penal proceeding, it is necessary for this office to know the text of the Provincial Order No. 7 art. 43, part VII and Provincial Order No. 3 art. 4 Sect. 8, issued by the A.M.C. Florence Province.

We would appreciate if that office could obtain and forward to this office the text of the above mentioned Provincial Orders.

Thanks. "

2. It is presumed that copy of the above orders is available at your HQ and could be sent to this office for onward transmission to the Procura del Regno of Pisa.

For the Chief Liaison Officer A.C.:

27

Attn. JB COMMISSION

CLO

DCLO

→ Chief Counsel

CJO

Italian Section

CL RKS

25 March 46



Lt. ERIC FLORMAN
Legal Liaison Officer.

4027

HEADQUARTERS ALLIED COMMISSION

APO 394

Office of the Executive Commissioner
ARCHIVES BRANCH

249A

Ref. No. :- 16/AB

8 March 1946

SUBJECT: Publication of Proclamation 10.

TO : Legal Sub Commission, H.Q., A.C.

With reference to your AC/4027/L dated 6th March 1946,
a search is being made for the reply in question and you will be
notified when this is to hand.

T. Rowlands
T. ROWLANDS Capt.
Admin. Officer
ARCHIVES BRANCH.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

248A

AC/4027/L.

AP/pa.
6 March 1946.

SUBJECT : Publication of Proclamation 10 (Financial Regulations),
Region 3 (for Province of Naples).

TO : Archives Division.

1. Herewith enclosed is copy of letter from Headquarters Region 3 A.C.C., 16 May 1944 file L-2051 on Posting of Proclamation No. 10. It is requested that a search be made to trace the reply of Provincial Commissioner Naples or Provincial Legal Officer Naples to this letter.

2. File 3160/3/L, of year 1944, on dates of issuance of Proclamations, for Hq Region 3, Allied Control Commission, Legal Division should be consulted also Public Safety Division Records.

G. G. HANNAFORD,
Lt. Colonel,
Deputy Chief Legal Advisor.

Incl.

25

HEADQUARTERS
NAPLES LIAISON GROUP
ALLIED COMMISSION
LEGAL DIVISION
APO 394

247A

L-2051

1 March 1946

SUBJECT: Publication of Proclamation 10 (Financial Regulations) Region 3 (for Province of Naples).

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Subcommittee,
APO 394, U.S. Army.

246A

1. Reference your AC/4027/L of 26 February 1946.
2. It is suggested that file 3160/3/L, of year 1944, on dates of issuance of Proclamations, for Hq., Region 3, Allied Control Commission, Legal Division, be consulted - also Public Safety Division records.

For the Chief Liaison Officer.

Rosario A. Gagliano
ROSARIO A. GAGLIANO
Captain, Infantry
Senior Legal Officer

ALLIED COMMISSION	
CCO	
Chief Counsel	
CL	
Italian Section	
CL RKS	
1 March 1946	

24

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

2467

NO/4027/-

-E/ns
26 February 1946.

SUBJECT : Publication of Proclamation 10 (Financial
regulations) Region 3 (for Province of Naples).
TO : Chief Liaison Officer (Attn: Capt. Ceziano).
NAPLES.

1. Reference your L 2051 of 28 Jan. 1946.
2. Archives have been consulted and can find no trace of the letter in question.
3. They suggest you give more information and the file no. etc., where it could be found.

By command of Rear Admiral STONE :

ANTHONY P. NOBENT,
Major, A.S.,
Chief Counsel,
for Chief Legal Advisor.

HEADQUARTERS
NAPLES LIAISON GROUP
ALLIED COMMISSION
LEGAL DIVISION
APO 394

2454

L-2051

16 February 1946

SUBJECT: Regional Order No.3 (ACC).

TO : Chief Legal Advisor, Headquarters
Allied Commission, Legal Subcommittee,
APO 394, U.S. Army.

1. Enclosed herewith for your consideration is a letter No.9743/2A, dated 8 February 1946 from 10th Legione Territoriale della R.Guardia di Finanza "Vesuvio", accountant office.

2. In the above mentioned letter there is requested a copy of Regional Order No.3. Records of Region 3 have been sent to Archives Division.

For the Chief Liaison Officer.

Rosario A. GAZIANO
ROSARIO A. GAZIANO
Captain, Infantry
Senior Legal Officer

1 Incl.
RAG/ms

22



Chief Counsel

On

CJO

Italian

CL RK

18.2.46



R2051
11.9.46
Legal
11¹⁰ LEGIONE TERRITORIALE
DELLA
R. GUARDIA DI FINANZA
"VESUVIO.."

Ufficio AMMINISTRAZIONE

N. 9743/2A Allegati N.
C/C postale n. 6-10779

Napoli, 11

8/2 1946

ALLA SEZIONE LEGALE DEL
COMANDO ALLEATO-Palazzo della
Provincia N A P O L I

Rispr. alla nota N.

del

Cap.

Tit.

Fisco.

OGGETTO: Richiesta copia Ordine Regione n.3 della
Commissione Alleata di Controllo.-

Incompleta a mano

Il Comando Militare Territoriale di Bari-Ufficio Amministrazione-, in sede di revisione, ha stralciato alcuni titoli relativi alla contabilità del I° trimestre 1944/45, resagli dal Comando Legione R.G. di Finanza di Bari, perchè mancanti della copia dell'Ordine Regionale n.3 della Commissione Alleata di Controllo.-

Per quanto sopra, si prega codesta Sezione voler trasmettere copia dell'ordine regionale di cui sopra, per mettere quest'ufficio in grado di trasmetterla al Comando Legione di Bari.-

Qui
IL COLONNELLO COMANDANTE
(Giacomo Ausieblo)

21

HEADQUARTERS
ALLIED COMMISSION
LIAISON OFFICE
LEGAL DIVISION
NAPLES

244A

L - 2051

28 January 1946

SUBJECT: Publication of Proclamation 10 (Financial Regulations) Region 3 (for Province of Naples).

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Sub-Commission,
APO 394, U.S. Army.

1. Reference my letter 21 January 1946 L- 2051 on above subject.

2. Forwarded herewith is copy of letter from Headquarters Region 3 A.C.C. 16 May 1944 file L- 2051 on Posting of Proclamation No.10. It is requested that a search be made in the Archives Division for the reply of Provincial Commissioner Naples or Provincial Legal Officer Naples to this letter.

For the Senior Liaison Officer.

Rosario A. Gaziano

ROSARIO A. GAZIANO
Captain, Infantry
Senior Legal Officer

RAG/ebg

SUBCOMMISSION

CLO

DCLO

→ Chief Counsel

CJO

Italian Section

RL RKS

Recd 31 Jan 46

20

HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. ARMY

L - 2051

16 May 1944

Subject: Posting of Proclamation No.10.

To : Provincial Commissioner, Naples.

1. The records of the Regional Legal Office disclose that on 25 January, 1944, 750 copies of Proclamation No. 10 were sent to your office with directions for posting.

2. Proof of posting of this Proclamation has become extremely important as the Blue Seal Currency cases depend on it.

3. Will you please advise officially concerning the posting of this Proclamation in Naples and Naples Province.

By Order of Lieutenant Colonel POLETTI:

JWC/mo

JOHN W. CHAPMAN,
Lt.Col., JAGD
Reg.Legal Officer

19

A True Copy
R. A. Gagliano
Capt., Inf.

843A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WS/ada.

20 February 1946.

AC/4021/L.

SUBJECT : Interpretation of Proclamation
No. 5 and General Order No. 23.

TO : Captain Gaziano -
Senior Legal Officer Naples.

1. Reference yours L/5040 dated 8 January 1946.
2. Herewith enclosed the opinion of this Sub-Commission
on the interpretation of Proclamation No. 5 and General Order No. 23.

G.G. RAINFORD,
Lt. Col.,
Deputy Chief Legal Advisor. 18

Copy to: Avv. Pacifico
Via Principe di Piemonte 22 - Avellino -

TRANSLATION

Subject : Interpretation of Proclamation No. 3 and General Order No. 23.

1. Captain Mariano, Senior Legal Officer

1. With your letter of the 2nd January 1946 you have applied for the issue of the Allied Consent referred to in Art. III, Section 1 of Proclamation No. 3 or, in the alternative, of a statement certifying the validity of the transfer on the grounds of the retroactivity of General Order No. 23, or failing this on the grounds of said Art. III Section 1 lacking the power to render null and void such transfer.

2. a) As regards the issue of the Allied Consent it is regretted that this Sub Commission cannot accede to your request both because the question does not come within its jurisdiction and because it is considered that at the present time the issue of such consent would be irregular. The point would remain, in any case, as to the validity of a ratification of a faulty contract.

b) As regards to the retroactivity of General Order No. 23, the suggested action is contrary to the letter itself of the said General Order (see Art. 1, 3rd line and Art. 44).

3. There is no doubt that the provision of Art. III of the aforementioned Proclamation causes a transfer made contrary to this provision to be null and void. This can be deduced from two considerations. First of all, one can refer to the letter itself of the law (sect. 2 : "Any transfer... made... without such written consent shall be void." Secondly, it must be borne in mind that the alterations brought to the law system of the occupied country by the occupying power are always a matter of public law : their sanction, therefore, causes the faulty contract to become null and void.

4. The main point is rather, the question whether the transfer of a right to repurchase is regulated by the said Art. III or otherwise. One must keep in mind that the analysis must be carried out on the English text, which is to be considered as the authoritative one. It is clear that as this is an exceptional provision, the interpretation must be of a restrictive nature. According to the best doctrines and jurisprudence the right to purchase operates as a subsequent condition of the contract of sale. The nature of the right to repurchase consists in the faculty for the seller to put into being the subsequent condition of the contract of sale. This right should therefore be included among the rights of "jura potestativa".

- 2 -

The exercise of the right to repurchase does not create a transfer but rather resolves it. The cession of the right to repurchase is the cession of a right "sui generis", a right which is certainly not "in re". It is to be assumed, instead, that the said provision refers only to rights "in re" (of easement and usage, and to transfers of immovables.

The fact that a procedure has been initiated with a view to obtain a written consent, and that the Legal Division of Region 3 has accepted the application for consideration, are irrelevant, as the said Legal Division certainly has no jurisdiction for interpreting authoritatively the said Proclamation.

5. The interpretation of this Sub Commission is to be considered as authoritative.

HEADQUARTERS ALLIED COMMISSION
AFS 394
LEGAL SUB COMMISSION

AG/5005/-

20 February 1946.

Oggetto : Interpretazione del Proclama N. 1 e
General Order N. 23

Avv.

Attilio Pacifico - Via Rps. di Piemonte 27
AVELLINO.

1. Con domanda in data 2-1-1946 la S.V. richiedeva in via principale il rilascio del benestare Alleato di cui al Proclama N. 1 Articolo III Sez. 1 e in via secondaria una dichiarazione precisante la validita' del trasferimento o per la retroattivita' del General Order N. 23 o per la mancanza di efficacia irritante della norma di cui al citato Art. III Sez. 1.

2. Quanto al rilascio del benestare richiesto, questa Sotto-Commissione non puo' aderire sia per mancanza di competenza sia perche' ritiene che il rilascio di detto benestare a questa data sarebbe irregolare. Resterebbe poi sempre la questione sulla validita' di una ratifica a un negozio viziato.

3. Quanto alla retroattivita' del "General Order N. 23" la lettera stessa di detto "General Order" respinge la tesi (cfr. Art. 1, 3° alinea e Art. 11).

4. Che la norma di cui all'Art. III del citato Proclama abbia efficacia irritante e' sicuro e si ricava da due ordini di considerazioni. Anzitutto la lettera stessa della legge (Sez. 2) "Any transfermade without such written consent shall be void". Si tenga presente poi che le modifiche apportate all'ordinamento giuridico del paese occupato dal potere occupante sono sempre di diritto pubblico: la loro sanzione quindi non puo' essere che la nullita' assoluta dell'atto viziato.

5. Resta da considerare piuttosto se la cessione di un diritto di riscatto sia o no regolata dal citato Articolo III. Si tenga presente che l'analisi va effettuata sul testo inglese da considerare testo prevalente. E' chiaro che trattandosi di norme eccezionali l'interpretazione non puo' essere che restrittiva. Il diritto di riscatto opera, secondo la migliore dottrina e giurisprudenza, come condizione risolutiva del contratto di vendita. Il con-

- 2 -

tenuto del diritto di riscatto, da esercitarsi entro un termine di decadenza, consiste nella facoltà di porre in essere da parte del venditore la condizione risolutiva del contratto di vendita: il diritto di riscatto andrebbe quindi catalogato tra i diritti potestativi. L'esercizio del diritto di riscatto non opera in trasferimento, ma lo risolve: la cessione del diritto di riscatto è cessione di un diritto sui generis, diritto che certamente non è reale.

Si da ritenere invece che la norma citata abbia riguardo alla sola costituzione di diritti reali (di servitu' e di godimento) e ai trasferimenti immobiliari. A nulla ote il fatto che sia stata iniziata pratica per ottenere il benestare e che la Sezione Legale della Regione 3 abbia preso in considerazione la domanda, non essendo certamente detta sezione competente a interpretare autenticamente il detto proclama.

5. L'interpretazione di questa Sotto Commissione e' da ritenersi autantica.

Note by Dott. Fiore.

16

GOVERNO MILITARE

del TERRITORIO OCCU

Ordine Generale

Considerato che presentemente è ritenuto opp
divieti e restrizioni fin'ora imposte dal Governo Mil

MILITARE ALLEATO

TERRITORIO OCCUPATO

Generale N. 23

esentemente è ritenuto opportuno porre termine ai

imposto dal Governo Militare Alleato

Considerato che presentemente è ritenuto opportuno abolire i divieti e restrizioni fin'ora imposte dal Governo Militare per la vendita di terreni e fabbricati nel territorio occupato.

Io, MAURICE STANLEY LUSH, C.B.E., M.C.,
Comandante Missario Esecutivo, ordino:

ARTICOLO I

Le restrizioni e divieti imposti dalle disposizioni dell'articolo III, sezione 1 e 2 sugli affitti e trasferimenti di terreni od altri interessi sono con la presente terminate. I trasferimenti di terreni, fabbricati od altri interessi compiuti anteriormente nel territorio occupato, soggetti al diritto in vigore della legge italiana.

entamente è ritenuto opportuno porre termine ai
imposte dal Governo Militare Alleato sulla compra
icati nel territorio occupato.

LEY LUSH, C.B.E., M.C., Generale di Brigata Com-
o:

ARTICOLO I

ti imposti dalle disposizioni del Proclama No. 5,
2 sugli affitti e trasferimenti di terreni, fabbricati
con la presente ~~terminati~~ e d'ora innanzi i fitti e
fabbricati od altri interessi possono essere libera-
torio occupato, soggetti soltanto alle norme in
na.

trasferimenti di terreni, fabbricati od altri interessi
mente effettuati nel territorio occupato, soggetti
vigore della legge italiana.

ARTICOLO II.

Quest'ordine entrerà in vigore in ogni provincia
compresa nel territorio occupato, a partire dalla

Data: 12 Marzo 1944.

MAUR

abbricani od altri interessi possono essere libera-
torio occupato, soggetti soltanto alle norme in
na.

ARTICOLO II.

in vigore in ogni provincia o parte di provincia
occupato, a partire dalla data qui apposta.

MAURICE STANLEY LUSH

GENERALE DI BRIGATA
COMMISSARIO ESECUTIVO

1698

Declassified E.O. 12356 Section 3.3/NND No.

785016

Legal Dept
Region III

File
Hole

HEADQUARTERS
NAPLES LIAISON GROUP
ALLIED COMMISSION
LEGAL DIVISION
APO 394

242A

L-2051

16 February 1946

SUBJECT: General Order No. 23.

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Subcommittee
APO 394, U.S. Army.
(Attention: Italian Branch).

1. Ref. your AC/4027/L, dated 13 February 1946.
2. Forwarded herewith is a file copy of General Order No. 23, dated 12 March 1944, as requested in your letter.
3. May this matter please be expedited as the case has been postponed pending your decision.

For the Chief Liaison Officer.

Rosario A. Gazzano
ROSARIO A. GAZZANO
Captain, Infantry
Senior Legal Officer.

12

1 Incl.
RAS/ms

C. RKS

18.5.46

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/mch.

AC/4027/1.

13 February 1946.

SUBJECT: General Order No. 23.

TO: Captain GAZIANO -
Senior Legal Officer - STATES.

1. Reference yours 1/3040 dated 8 January 1946.
2. May this Sub-Commission please, be supplied with a copy of the General Order No. 23 mentioned in para. 1 of your letter.
3. Every effort of this Sub-Commission to find a copy of it in this Headquarters had no result.
4. Please consider the matter as urgent.

By command of Rear Admiral STONE.

MISGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

240

4027
AC/1000/1.

/mda.

8 Febbraio 1946.

Avv. GUIDO PACIFICO
Principe di Piemonte 22 - AVELLINO.

1. E' stata trasmessa a questa Sottocommissione dalla
Divisione Legale di NAPOLI la v/s domanda.

2. Questa Sottocommissione e' passata allo studio e
informera' del risultato in brevissimo lasso di tempo.

3. La S.V. potra' ottenere nel frattempo un rinvio
della causa. Nell'ipotesi la causa fosse stata gia' spedita a
sentenza questa Sottocommissione non esprimeva' nessun parere
prima dell'inizio del giudizio di appello.

4. Si riservano comunicazioni.

10

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

1702

4005
4027

John J. L...

259A

HEADQUARTERS
ALLIED COMMISSION
LIAISON OFFICE
LEGAL DIVISION
NAPLES

L -5040

29 January 1946

SUBJECT: Petition of Avv. Guido PACIFICO.

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Sub-Commission,
APO 394, U.S. Army.

94A

1. Reference my L-5040, 8 January 1946, on interpretation of Art.3, Sec. 1 and 2, Procl.5.

2. Reference your AC ⁴⁰⁰⁵ ~~14005~~ L, 18 Jan. 1946 on petition of Avv. PACIFICO.

3. For your information records of Region 3 and Province of Naples are not in the possession of this office. These records are in the Archives Division, Rome.

4. As I knew Avv. PACIFICO had the original letters in his possession, I have requested him to furnish me copies of the letters cited in his petition.

5. Returned herewith is the original petition of Avv. PACIFICO and the copies of the 2 letters. Avv. PACIFICO is particularly concerned with the deed Notaio ERCOLINI, between MASUCCIO GUSTAVO and BI-MEO ANDREA fu Alfonso, as shown in the enclosed letters of 6 Feb. and 27 Feb. 1944.

CLO	
DCLO	
Chief Counsel	-1-
CJO	
Italian Section	
CLRG	

→

Di Santo

6. As this case is a matter of urgency , may the decision be expedited.

For the Senior Liaison Officer.

Rosario A. Gaziano

ROSARIO A. GAZIANO
Captain, Infantry
Senior Legal Officer

3 Incls.

Incl. 1. Petition of Avv. PACIFICO.

Incl. 2. Letter of Col. McLain, 6 Feb. 1944.

Incl. 3. Letter of Col. Chapman, 27 Feb. 1944.

RAG/eb

HEADQUARTERS
ALLIED COMMISSION
LIAISON OFFICE
LEGAL DIVISION
NAPLES

259A

L-2051

21 January 1946

SUBJECT; Publication of Proclamation 10, (Financial Regulations) Region 3 (for Province of Naples).

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Sub-Commission,
APO 394, U.S. Army.

1. The question has been raised in a case before the Tribunale of Naples that Proclamation 10 was not published in the Province of Naples. A thorough examination of the records in my possession and those of the Public Safety Division fail to disclose positive proof that Proclamation 10 was published. The records indicate that the order to publish Proclamation 10 was given, that on 25 January 1944, 750 copies of Proclamation 10 were sent to S.C.A.C., Naples, and that there is no reply from Naples Province as to the posting of Proclamation 10.

2. Inasmuch as the records of Region 3 and Province of Naples have previously been sent to Archives Division, Headquarters, Allied Commission, it is requested that a search of these records be made for conclusive proof as to the publication of Proclamation 10 in the Province of Naples and Naples Commune. May a reply to this letter please be expedited as this is a matter of urgency in a case before the Italian Courts.

For the Senior Liaison Officer.

Rosario A. Gaziano
ROSARIO A. GAZIANO
Captain, Infantry
Senior Legal Officer

LEGAL SUBCOM
CLO
DCLO
RAG/ms
CLO
Italian

Red 22 Jan 46.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

2374

4027
AC/400/4

AT/ne
15 January 1946

SUBJECT : Petition of Avv. Guido PACIFICO.

TO : A.C. Liaison Officer (Attn: Senior Legal Officer)
NAPLES

1. Reference your L - 5040 of 8th January 1946.
2. The petition states that letters were exchanged with the Legal Officer in Naples in January and February 1944. Before advising on this matter we would like to see copies of this correspondence which I believe you will find in your office. I enclose the petition which please return with your reply.

By command of Rear Admiral STONE :

MUSCHAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

6

1706

785016

HEADQUARTERS
ALLIED COMMISSION
LIAISON OFFICE
LEGAL DIVISION
NAPLES

L3PA

L-2051

21 January 1946

SUBJECT: Publication of Proclamation 10, (Financial Regulations) Region 3 (for Province of Naples).

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Sub-Commission,
APO 394, U.S. Army.

1. The question has been raised in a case before the Tribunale of Naples that Proclamation 10 was not published in the Province of Naples. A thorough examination of the records in my possession and those of the Public Safety Division fail to disclose positive proof that Proclamation 10 was published. The records indicate that the order to publish Proclamation 10 was given, that on 25 January 1944, 750 copies of Proclamation 10 were sent to S.C.A.C., Naples, and that there is no reply from Naples Province as to the posting of Proclamation 10.

2. Inasmuch as the records of Region 3 and Province of Naples have previously been sent to Archives Division, Headquarters, Allied Commission, it is requested that a search of these records be made for conclusive proof as to the publication of Proclamation 10 in the Province of Naples and Naples Commune. May a reply to this letter please be expedited as this is a matter of urgency in a case before the Italian Courts.

For the Senior Liaison Officer.

Rosario A. Gaziano
ROSARIO A. GAZIANO
Captain, Infantry
Senior Legal Officer

CLO

DCIO

RAG/ms

CLO

Red 22 Jan 46.

Proceeds.

I discussed the answer
hereto with Captain Gyzans
on my last trip to Naples.

An answer to this letter,
therefore, is unnecessary.

Monivier
Col. Inf

HEADQUARTERS ALLIED COMMISSION
AFS 394
LEGAL SUB COMMISSION

2374

4027
AC/8005/L

AT/ns
13 January 1946

SUBJECT : Petition of Adv. Guido PACIFICI.

TO : A.C. Liaison Officer (Attn: Senior Legal Officer)
NAPLES

1. Reference your L - 5040 of 8th January 1946.
2. The petition states that letters were exchanged with the Legal Officer in Naples in January and February 1944. Before advising on this matter we would like to see copies of this correspondence which I believe you will find in your office. I enclose the petition which please return with your reply.

By command of Rear Admiral STONE :

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

6

HEADQUARTERS
ALLIED COMMISSION
LIAISON OFFICE
LEGAL DIVISION
NAPLES

L - 5040

8 January 1946

SUBJECT: Interpretation of Art.3, Sec.1 and 2, Procl.5
(Re Property De Meo Andrea fu Alfonso,
Volturara Irpina, prov.of Avellino).

TO : Chief Legal Advisor, Headquarters,
Allied Commission, Legal Sub-Commission,
APO 394, U.S. Army.

1. Forwarded herewith is petition of Avv. Guido Pacifico, Via Principe di Piemonte No.22, Avellino, dated 2 January 1946, received this date from Avv. Pacifico. This petition is concerned with interpretation of the requirement of Allied permission for the transfer of real estate according to Procl.5. In his petition the lawyer mentions letters from Regional Legal Officer Region 3, APO 394, one letter is dated 6 February 1944 and the other 27 February 1944. In the second letter a reply was promised at an early date to the Notary Ercolini. On 12 March 1944 Brigadier Lush issued General Order No.23 in which the restrictions on transfer of land were lifted. The Notary Ercolini received no subsequent reply to the letter of 27 February 1944.

2. It is requested that the petition of the lawyer be examined and that this office be notified as soon as possible concerning your decision on the lawyer's petition.

LEGAL SUB COMMISSION

CLO

DCLO

Chief Counsel

CJO

For the Senior Liaison Officer.

Rosario A. Gaziarno

ROSARIO A. GAZIARNO
Captain, Infantry
Senior Legal Officer

Incl. Petition of Avv. Pacifico.

C. RAG/eb

→ *Mr. Thomas*

20 JAN 1946

6

Cliente, sig. De' gen. Andrea Fu Alfonso, residente in Volturno Irpino, esigeva quanto segue:

- il predetto De' gen. Andrea, in data 17 gennaio 1944 ebbe a stipulare, a mezzo del Notaio Mario Ercolini, pure di Volturno Irpino, un pubblico strumento di cessione del diritto di riscatto, riservatosi de' successi Guafava fu Edmondo, relativamente ad una zona edificatoria, esistente nell'abitato di detto Comune. Detto strumento venne trascritto presso l'Ufficio del Registro Immobiliare.

È poichè, all'epoca anzidetta, era in vigore nella Provincia di Avellino, - ancora sottoposta all'A.M.G. - il Proclama n. 5 del gen. Alexander, - quale proclama vietava il trasferimento di beni immobili senza il benestare scritto del Capo degli Affari Civili - Art. III, sezioni 1 e 2 - il Notaio stipulante inviò gli atti prescritti alla Divisione Legale dell'A.M.G. in Napoli, per ottenere il benestare - e il detto Ufficio, con nota 8 febbraio 1944 Gen/ma 3/6048/L/178-177, diretto al detto Notaio, nel suo receipt in Archivalde, accusò ricevuta degli atti e delle richieste.

28 gennaio detto anno, e chiese altre notizie, in merito

alla situazione finanziaria del cedente, nel beneficio che
potrebbe ricevere ecc. ecc. Il detto invia la notizia
e i documenti richiesti; l'Ufficio Legale, nell'accusare
ricevuta della relativa nota 15 febbraio, promette una pron-
ta risposta; ciò in data 27 febbraio stesso, con la nota
GAB/no 2/2046/L/173-177. Il 10 marzo 1944, con l'Ordine
Gen. n. 23 col quale si dichiara che le restituzioni di cui
il Proclama n. 5 Art. III sez. 1 e 2 erano abrogate, nes-
sa ulteriore compilazione il detto Ufficio Legale ha
più inviato al Notaio Ercolini.
Nonché, essendo sotto giudizio, in cui si discute la va-
lidità di tale istrumento, la mancanza del bonestare al-
lento, sorge la necessità di chiedere a Codesto On. Uffi-
cio il bonestare in parola, onde completare la pratica;
oppure una dichiarazione da cui risulti che, essendo in-
tervenuta l'Ordine Gen. n. 23 sopra ricordato, non occorre
il bonestare, dovendosi ritenere abrogato. Il Proclama n. 5
ancha con effetto retroattivo, o perché la mancanza del

gen. n. 27 col quello si dichiara che le restrizioni di cui
il Proclama n. 5 art. III sez. 1 e 2 erano abbreviate nessun-
na ulteriore comunicazione il detto Ufficio Lerate ha
più inviata al Notaio Freolini.
senonché, essendo sorto giudizio, in cui si discute la co-
littà di tale istrumento, la mancanza del benestare Al-
lento, sorge la necessità di chiedere a Codesto 'm. Uffi-
cio il benestare in parola, onde completare la pratica;
oppure una dichiarazione da cui risulti che, essendo in-
tervenuta l'ordine gen. n. 23 sopra ricordato, non occorre
il benestare, dovendosi ritenere abbreviato. Il Proclama n. 5
anche con effetto retroattivo, o perché la mancanza del
benestare in parola non costituisce motivo di nullità
assoluta del pubblico istrumento, nel senso delle leggi
italiane.

La necessità di tale attestazione è determinata dal fat-
to che la Corte di Appello di Napoli, in una causa simi-
le, (Cass. contro Cass. di 10 ottobre 1945 - sezione III -)
ha ritenuto che la mancanza del benestare è un motivo

di nullità insanabile: per cui tutti gli atti stipulati
prima del 12 marzo 1944 (data dell'ordine gen. n. 23, di re-
voca) sono nulli, senza il benestare.
Il giudizio in cui è interessato il De Leo, deve essere
trattato il 15 gennaio corr.; si prega, pertanto, l'ufficio
On. Ufficio di ordinare questa richiesta con cortese com-
provazione e sollecitudine.

Avellino 2 gennaio 1948

ul
per ufficio

233A

HEADQUARTERS

ARMY OF THE UNITED STATES GOVERNMENT

LEGAL DIVISION

ALB 704 U.S. ARS

SAB/SC

2/20/46/L/173-177

8 February 1946

Mr. C. W. Morris, President
 710 Westfield No. 40

Albuquerque

Sir,

1. Reference is made to your application dated
 28 January 1946 for the contents to sales by auction
 and store in Bando.

A. To the above address for 10,000

line of the right to repurchase for the
 sum of 6,000 line a copy of 18,072 lines
 of Volterra Loping at Contrada Corraline
 or Linza Morcote; and

B. To the above address for 10,000

line of land, having an area of 1,4045
 hectares at area di Santa Sofia del
 solo Contrada Frigate; subject to a
 right of repurchase before 30 January
 1946.

2. Will you please forward to this headquarters a
 statement, the accuracy of which is to be verified by

Sir,

1. Reference is made to your applications dated 28 January 1944 for the contracts to sales by Messrs. Diselva Co. S.p.A.

a. to Di Leo Andrea Di Alfonso for 10,000 lire of the right to repurchase for the sum of 6,000 lire a term of 18,075 lire at Valtorre Limit of Valtorre Contino of Fieze Adreano and

b. to Di Leo Andrea Di Alfonso for 10,000 lire of land, having an area of 1,4045 hectares at Valtorre Contino, subject to a sale, Valtorre Fieze, subject to a right of repurchase before 30 January 1945.

2. Will you please forward to this headquarters a statement, the accuracy of which is to be verified by you, showing the circumstances under which the present sales arise, the financial position (if some detail) of the company, and how he will benefit from the sales.

Yours faithfully

Lt. Col. J. A. G. D.

Regional Chief Local Officer

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