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CLAIMS TRIBUNAL

دیوان داری دعاری ایران - ایالات متحدہ

ORIGINAL DOCUMENTS IN SAFE

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Case No. 36

Date of filing: Nov 10-86

\*\* AWARD - Type of Award \_\_\_\_\_  
- Date of Award \_\_\_\_\_  
\_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

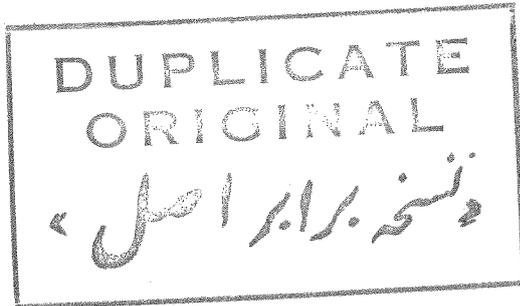
\*\* DECISION - Date of Decision \_\_\_\_\_  
\_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

\*\* CONCURRING OPINION of \_\_\_\_\_  
- Date \_\_\_\_\_  
\_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

\*\* SEPARATE OPINION of \_\_\_\_\_  
- Date \_\_\_\_\_  
\_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

\*\* DISSENTING OPINION of Correction to Dis of Mr Holtzman  
- Date Nov 10-86  
2 pages in English \_\_\_\_\_ pages in Farsi

\*\* OTHER; Nature of document: \_\_\_\_\_  
\_\_\_\_\_  
- Date \_\_\_\_\_  
\_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi



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CASE NO. 36

CHAMBER ONE

AWARD NO. 259-36-1

FLEXI-VAN LEASING, INC.,  
Claimant,

and

THE GOVERNMENT OF THE ISLAMIC  
REPUBLIC OF IRAN,  
Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL	دیوان داوری دعاوی ایران - ایالات متحدہ	
ثبت شد - FILED		
Date	10 NOV 1986 ۱۳۶۵ / ۸ / ۱۹	تاریخ
No.	36	شماره

CORRECTION TO DISSENTING  
OPINION OF JUDGE HOLTZMANN

The following correction should be made in the English version of my Dissenting Opinion filed in this Case on 5 November 1986:

Page 8, line 18, delete the word "them" and insert the word "it."

A copy of the corrected page is attached.

Dated, The Hague  
10 November 1986

Howard M. Holtzmann

representatives managed the company. What the Award calls the companies' "own decisions" were thus the decisions of the Government representatives who ran them. This is borne out, for example, by the affidavit of Richard Maass, an agent whom Flexi-Van sent to Iran to try to recover its equipment. Mr. Maass stated that between January 1980 and September 1981 the Foundation appointed representatives who supervised the operations of Star Line, and that all important decisions had to be made by the Foundation's representatives. As he put it, every decision concerning Flexi-Van's equipment "had to be sanctioned by the [Foundation]." That evidence is unrebutted. Nor is there any reason to believe that the situation was any different at Iran Express where the evidence shows that the former directors had been ousted and a Ministry official acted as the top manager.

A critical element in managing Star Line and Iran Express was making the decision of whether to pay Flexi-Van the millions of dollars of rentals due it and whether to return Flexi-Van's valuable equipment. The representatives of the Foundation and the Ministry must surely have made that decision, for there was no one else left who could make it.

The Tribunal notes in an analagous context that Flexi-Van did not introduce as evidence specific "orders, directives, recommendations or instructions from the Foundation or the Government" requiring that rentals not be paid or that equipment not be returned. Award, p. 20. But, of course, Flexi-Van had no access to any such internal management communications. The Tribunal imposes an impossible evidentiary burden in holding that Flexi-Van cannot recover damages because it did not produce documents that are within the sole control of a confiscated company or of the Government representatives who managed it. The Tribunal stressed that in Foremost Teheran, Inc. and Government of the Islamic Republic of Iran, Award No. 220-37/231-1, pp. 24-29 (11