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Case No. 267

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IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دآوری دعاوی ایران - ایالات متحدہ
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No. 267	شماره

CASE NO. 267

CHAMBER ONE

AWARD NO. 131-267-1

M & M PRODUCTIONS, INC.,
Claimant,
and
THE ISLAMIC REPUBLIC OF IRAN,
Respondent.

DUPLICATE
ORIGINAL
نسخه برابر اصل

AWARD

I. Facts and Contentions

On 14 January 1982, M & M Productions, Inc. ("M & M") filed a claim with the Tribunal against the Islamic Republic of Iran seeking payment of \$1,950,000 plus interest and costs. The amount claimed consists of a \$1,875,000 share in profits anticipated from a film-project, plus a \$37,500 salary for co-producing the film and \$37,500 for screenplay and story rights.

Claimant asserts that it is a corporation incorporated in the State of California and that its President and sole stockholder is Mrs. Mary P. Murray, a national of the United States.

Claimant alleges that in 1971 Mrs. Murray entered into a contract on its behalf with Missaghieh Film Studio Company Ltd. ("Missaghieh Studio"), an Iranian company, for the production in Iran for world-wide distribution of a feature film about certain events in connection with the Tehran Conference during the Second World War. This contract was signed in Iran, to which Mrs. Murray had travelled to discuss the project at the invitation of Mr. Mehdi Missaghieh, then President of the Motion Picture Association of Iran and owner of Missaghieh Studio.

Claimant alleges that the two companies initially contemplated joint ownership of the film, but that during the preparatory work which Mrs. Murray performed on the project it became apparent that a higher budget than originally planned would be involved to produce the film. The two companies therefore attempted to engage the Iranian Government's interest in the film.

Claimant asserts that Mr. H. Kheradmand, Director of the National Film Board of the Iranian Ministry of Culture and Arts, promised that the Government would support the project financially, and that in reliance on that promise further work was done to prepare for the production of the film. Claimant alleges that the final contracts reflecting the Iranian Government's participation in the project were negotiated and agreed to in 1976 between Missaghieh Studio and the Ministry of Culture and Arts.

Claimant alleges that the contracts involved in this case constituted joint ventures between M & M, Missaghieh Studio and the Government of Iran. The Government of Iran was to receive half of the estimated profits of \$7,500,000 for financing the film, while M & M and Missaghieh Studio were to share half of the profits. In addition, Claimant alleges that it was to receive a salary of 5% (i.e. \$37,500) from the \$750,000 budget of the film for co-producing the film and 5% (i.e. \$37,500) from the budget for screenplay and story rights.

Concerning the basis of its claim, Claimant asserts that "as the result of its wrongful acts or omissions, Iran bears responsibility for losses suffered by M & M Productions". Claimant also asserts that Iran should be required to pay compensation in the amounts claimed "for the losses suffered by [M & M] in the circumstances described above". As to the standard for recovery, Claimant points to the criteria established by the Permanent Court of International Justice, indicating that lost profits as well as amounts expended should be compensated.

A Statement of Defence and a Rejoinder were filed by the Ministry of Islamic Guidance for the Respondent Government of the Islamic Republic of Iran. Respondent objects that Claimant's United States nationality and Mrs. Murray's authority to act on Claimant's behalf have not been

established. It further argues that there is no contractual relationship between Claimant and the Government of the Islamic Republic of Iran or any of its agencies, instrumentalities or controlled entities. Respondent further denies that Claimant has established any "wrongful act or omission" which would entail Respondent's responsibility to compensate Claimant's alleged losses. In addition, Respondent requests an award on its costs in this case, alleging that the claim is baseless.

Following the submission of written evidence and arguments described more fully below, the Tribunal in its Order of 2 March 1984 directed both Parties to submit any further documents upon which they wished to rely. The Tribunal further informed the Parties that it intended thereafter to decide this case on the basis of the written pleadings and documents submitted. Neither Party requested a Hearing.

II. Reasons

Claimant has produced certain evidence concerning its nationality. This includes a photocopy of the first page of M & M's Articles of Incorporation, indicating that company's incorporation in the State of California in 1967. Claimant has also submitted a photocopy of a tax form issued to M & M for the year 1982, indicating M & M's continued existence at least through that year. Finally, Claimant has submitted a photocopy of Mrs. Murray's United States passport, indicating her birth in the United States and her United States citizenship through the dates relevant to this claim.

Claimant has not, however, submitted any evidence to support Mrs. Murray's alleged ownership of M & M. The Tribunal therefore concludes that the evidence submitted is insufficient to establish that Claimant is a United States national, as defined in Article VII, paragraph 1, of the Claims Settlement Declaration, or that this claim is a claim

of a United States national as required by Article VII, paragraph 2, of that Declaration.

This question needs no further examination, because the pleadings and evidence in this case also fail to establish to the Tribunal's satisfaction any substantive basis for Claimant's claim against Respondent. Although Claimant alleges that a contractual relationship existed among itself, Missaghieh Studio and the Islamic Republic of Iran, Claimant has been unable to provide any evidence substantiating this allegation.

In its Statement of Claim and Reply, Claimant refrained from identifying the private Iranian party to the alleged contract, on the ground that to do so would jeopardize that party's safety. For the same reason, Claimant did not submit the contract or other substantiating evidence.

In its Order of 17 May 1983, the Tribunal requested Claimant either to file the documents upon which it wished to rely or to withdraw the claim. On 29 September 1983, Claimant, alleging that it had been informed that the Iranian party in question already had been incarcerated in Iran, identified that party as Mr. Missaghieh. Claimant also submitted certain documentary evidence.

That evidence included a copy of a contract dated 14 June 1971, signed by Mr. Missaghieh on behalf of Missaghieh Studio and by Mrs. Murray on behalf of Claimant M & M. The contract provided for the co-production of a film by Missaghieh Studio and M & M. Although the contract defined certain financial obligations for each party, a number of elements of the contract were reserved for future agreement, and certain obligations were suspended pending the execution of a distribution contract. The contract submitted contains no reference to any financial obligation or other participation in the project by the Respondent.

Claimant submitted an affidavit of Mrs. Murray asserting that the Government of Iran, through the Ministry of Culture and Arts, had promised its financial support for the project and that Claimant had relied on this promise. Claimant also submitted correspondence between Mrs. Murray and the Ministry of Culture and Arts indicating that the Ministry was at least aware of the film project. Claimant submitted no evidence, however, supporting Claimant's allegation that the Government of Iran had undertaken a contractual obligation to finance the proposed film.

Claimant also stated in its submission that "all written contracts with the Government of Iran with regard to this project were maintained by Missaghieh Film Studio Co., Ltd.," and that "[t]he contracts through which the Ministry committed its financial backing to the project are available to the Respondent, and Claimant therefore requests that the Respondent be ordered to produce them." The Respondent replied that the Ministry of Islamic Guidance had directed a letter of inquiry concerning the alleged contracts to the Ministry's General Department of Research and Cinematic Relations, and that a reply by the General Department of Supervision and Screen had stated that no records concerning such contracts had been found.

As noted above, in its Order of 2 March 1984 the Tribunal directed both Parties to submit any further documents upon which they wished to rely, and stated its intention thereafter to decide this case on the basis of the written pleadings and documents submitted. Claimant submitted brief comments, but submitted no additional evidence.

The Tribunal concludes that the only contractual relationship which is supported by the documentary evidence before it is the one between Claimant and Missaghieh Studio. This contract makes no mention whatsoever of the Government of Iran.

The Tribunal therefore holds that no contractual or other legal relationship has been established between Respondent and the Claimant upon which the Claimant could base its claim.

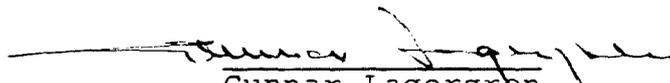
In the circumstances of this case, the Respondent is entitled to costs of arbitration. The Tribunal determines the reasonable amount of those costs to be \$2,000.00.

For these reasons;

The claim of M & M Productions, Inc. is dismissed.

The Claimant, M & M Productions, Inc., is obligated to pay costs to the Respondent Islamic Republic of Iran in the sum of \$2,000.00.

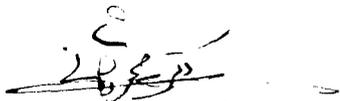
Dated, The Hague,
7 June 1984


Gunnar Lagergren
Chairman
Chamber One

I agree with awarding of the costs of arbitration, although so nominal, against the Claimant only because of the frivolousness of the claim and its prosecution in a period that the Islamic Republic is overburdened in responding to 4000 American claims before this Tribunal and several hundreds before other non-Iranian fora in a time of war and distress. See my view in Award No. 36-200-1. From the start of its business, two years ago, this Tribunal should have adopted a mechanism sorting out such


Howard M. Holtzmann

frivolous and baseless claims and dealt with them in a manner not disabling the Islamic Republic to defend against the serious claims fully and properly and also to pursue its own claims before the Tribunal.



Mahmoud M. Kashani