

819-91

ORIGINAL DOCUMENTS IN SAFE

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Case No. 819Date of filing: 13 Mar 1989**** AWARD**- Type of Award on Agreed Terms- Date of Award 13 Mar 19894 pages in English4 pages in Farsi**** DECISION** - Date of Decision _____

_____ pages in English

_____ pages in Farsi

**** CONCURRING OPINION** of _____

- Date _____

_____ pages in English

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**** SEPARATE OPINION** of _____

- Date _____

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**** DISSENTING OPINION** of _____

- Date _____

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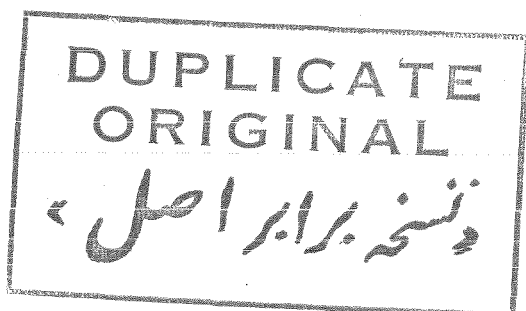
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CASE NO. 819

CHAMBER ONE

AWARD NO. 416-819-1

H & F KORNFELD, INC.,
HANFIR INTERNATIONAL, INC.,
SHK MECHANICAL CORP., and
ADKAR MECHANICAL CORP.,

Claimants,

and

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
SHAH GOLI APARTMENT COMPANY,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	13 MAR 1989
۱۳۶۷ / ۱۲ / ۲۲	

AWARD ON AGREED TERMS

1. On 14 January 1989 a Joint Request for an Arbitral Award on Agreed Terms was received by the Tribunal, which Request was signed by THE AGENT OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN and a representative of the MINISTRY OF HOUSING OF THE ISLAMIC REPUBLIC OF IRAN, THE SHAH GOLI APARTMENT COMPANY and of BANK TEJARAT IRAN on the one hand, and by representatives of H & F KORNFIELD, INC., HANFIR INTERNATIONAL INC., SHK MECHANICAL CORP. AND of ADKAR MECHANICAL CORP. on the other, requesting the Tribunal to record a Settlement Agreement dated 30 November 1988 as an Arbitral Award on Agreed Terms pursuant to Article 34, paragraph 1, of the Tribunal Rules. The Settlement Agreement was entered into by the Ministry of Housing of the Islamic Republic of Iran, the Shah Goli Apartment Company, Bank Tejarat Iran (as successor to Bank Sanaye), (collectively referred to hereinafter as "the Respondents"), on the one part, and H. F. Kornfeld, Inc., "and its wholly-owned subsidiary Hanfir International, Inc., SHK Mechanical Corp., and its wholly-owned subsidiary Adkar Mechanical Corp., all four Claimants in Case No. 819 which for the purpose of this Settlement Agreement represent themselves, their subsidiaries, parents, affiliates, successors and assignees," (hereinafter collectively referred to as "the Claimants"), on the other part. A copy of both the Joint Request and the Settlement Agreement is attached.

2. The Settlement Agreement provides for certain reciprocal obligations of the Parties, including the transfer to Shah Gholi Apartment Company of all titles, rights, benefits and interests of the Claimants in the properties claimed in the Statement of Claim (Article VI).

3. Article III states that:

"In full, complete and final settlement of all disputes, differences, claims and counterclaims arising out of the rights, interests, relationships and occurrences related to the subject matters of the Statement of Claim, the Statements of Defense and Counterclaims

and this Settlement Agreement, and in consideration of the covenants, premises, waivers, withdrawals, and other agreements contained herein, the sum of US \$ 940,000= (nine hundred and forty thousand dollars) hereinafter the "Settlement Amount"), shall be paid to the Claimants out of the Security Account established pursuant to para 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981."

4. Article VII of the Settlement Agreement provides that:

"Upon the issuance of the Award on Agreed Terms all Claimant's rights and entitlements to the Rial Accounts numbered 10786, 10790, 10791 & 10795 in Bank Tejarat, and/or any funds claimed in the Statement of Claim and subsequent submissions in Case No. 819 shall be transferred unconditionally, irrevocably, without any encumbrance and without the right of any recourse, to the Shah Goli Apartment Company. Claimants shall promptly submit to the Tribunal documents transferring all these accounts to Shah Goli Apartment Company and empowering it to withdraw the funds therein. The Tribunal is requested to hand over the said documents to the Agent of the Islamic Republic of Iran upon the issuance of the Award on Agreed Terms.

On 10 January 1989 the Claimants submitted to the Tribunal a bill of sale which conformed with the requirements of Article VII of the Settlement Agreement.

5. On 13 February 1989, the Claimants filed a letter, confirming that H & F Kornfeld, Inc. is the successor by merger to the Claimants H & F Kornfeld, Inc., Hanfir International, Inc., SHK Mechanical Corp. and Adkar Mechanical Corp. Further it was stated:

"Although payment to all four Claimants would be satisfactory, in view of the merger, payment to H & F Kornfeld, Inc. would be preferable."

6. The Tribunal accepts the Settlement Agreement in accordance with Article 34, paragraph 1, of the Tribunal Rules.

Based on the foregoing,

THE TRIBUNAL AWARDS AS FOLLOWS:

The Settlement Agreement is hereby recorded as an Award on Agreed Terms binding upon the Parties. Consequently, the Respondents are obligated to pay the Claimants H & F KORNFIELD, INC., HANFIR INTERNATIONAL, INC., SHK MECHANICAL CORP. and ADKAR MECHANICAL CORP. the amount of Nine Hundred Forty Thousand United States Dollars (U.S.\$940,000.00). This obligation shall be satisfied by payment out of the Security Account established pursuant to paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated 19 January 1981.

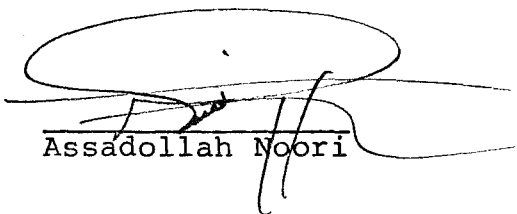
This Award is submitted to the President of the Tribunal for notification to the Escrow Agent.

Upon the issuance of the Award on Agreed Terms, the Tribunal's Registry is directed to deliver to the Agent of the Government of the Islamic Republic of Iran the notarized bill of sale submitted by the Claimants on 10 January 1989 as required by Article VII of the Settlement Agreement.

Dated, The Hague
13 March 1989


Bengt Broms
Chairman
Chamber One

In the Name of God


Assadollah Noori


Howard M. Holtzmann

IN THE NAME OF GOD

Before
Iran-United States Claims Tribunal
The Hague, The Netherlands

Case No. 819, Chamber One

JOINT REQUEST FOR ARBITRAL AWARD
ON AGREED TERMS

Pursuant to Article 34 of the Tribunal Rules, the Ministry of Housing of the Islamic Republic of Iran, the Shah Goli Apartment Company, Bank Tejarat (successor to Bank Sanaye), (collectively referred to hereinafter as "Respondents"), on the one part, and H&F Kornfeld, Inc. and its wholly-owned subsidiary Hanfir International, SHK Mechanical Corp. and its wholly-owned subsidiary Adkar Mechanical Corp., all four Claimants in Case No. 819, which for the purpose of this Settlement Agreement, represent themselves, their subsidiaries, parents, affiliates, successors and assignees (hereinafter collectively called "Claimants"), on the other part, jointly request that Iran-United States Claims Tribunal ("the Tribunal") issue an Arbitral Award on Agreed Terms that will record and give effect to the Settlement Agreement reached by the parties in Case No. 819, Chamber One.

On November 30, 1988 Claimants and Respondents entered into a Settlement Agreement, a copy of which is attached hereto, providing inter alia:

- (i) That Claimants shall be paid the amount of nine hundred forty thousand United States dollars (US\$940,000), in full, complete and final settlement of all claims and counterclaims in Case No. 819

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری دعاوی ایران-ایالات متحده
ثبت شد - FILED	
Date	16 JAN 1989
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- (ii) That upon the issuance of the Award on Agreed Terms Claimants shall transfer to Shah Goli Apartment Company, unconditionally, irrevocably and without the right to any recourse, all their rights, benefits, interests, claims and titles in all and any properties claimed in the Statement of Claim and subsequent submissions in Case No.819.
- (iii) That upon the issuance of the Award on Agreed Terms Claimants shall relinquish all rights or entitlements to the Rial Accounts Nos. 10786, 10790, 10791 & 10795 in Bank Tejarat, and/or any funds claimed in the Statement of Claim and subsequent submissions in Case No.819 and transfer unconditionally and irrevocably the balance of the said accounts and/or the funds claimed, to the Shah Goli Apartment Company.

The undersigned request the Tribunal to record this Settlement Agreement as an Arbitral Award on Agreed Terms, giving effect to its terms and conditions and terminating all claims and counterclaim in Case No. 819 forever and with prejudice in the manner specified therein.

Mohammad K. Eshragh,
Agent of the Government of the
Islamic Republic of Iran to the
Iran-U.S. Claims Tribunal

Date: SV/11/88

Ministry of Housing of the
Islamic Republic of Iran

By: [Signature]

Date: 11/9/88

H&F Kornfeld Inc.

By: [Signature]

Date: 11/30/88

Hanfir International Inc.

By: [Signature]

Date: 11/30/88

Shah Goli Apartment Company

By: Mohsen Khabibi Nejad

Date: Dec 130/88

SHK Mechanical Corp.

By: Mohsen Khabibi Nejad

Date: Dec 130/88

Bank Tejarat Iran

By: M. Ekh Terav

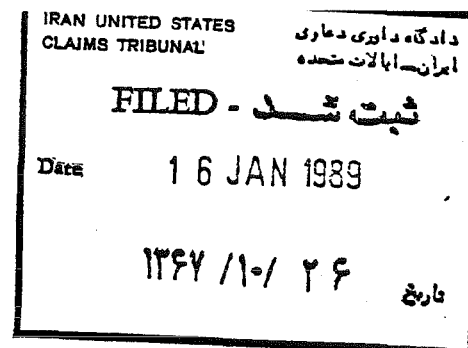
Date: Dec 130/88

Adkar Mechanical Corp.

By: Mohsen Khabibi Nejad

Date: Dec 130/88

IN THE NAME OF GOD



SETTLEMENT AGREEMENT OF CASE NO. 819, CHAMBER 1

This Settlement Agreement is made this 30th day of November 1988, by and between the Ministry of Housing of the Islamic Republic of Iran, the Shah Goli Apartment Company, Bank Tejarat Iran (successor to Bank Sanaye), (collectively referred to hereinafter as "Respondents"), on the one part, and H&F Kornfeld, Inc., and its wholly owned subsidiary Hanfir International Inc., SHK Mechanical Corp. and its wholly-owned subsidiary Adkar Mechanical Corp., all four Claimants in Case No. 819 which for the purpose of this Settlement Agreement, represent themselves, their subsidiaries, parents, affiliates, successors and assignees (hereinafter collectively called "Claimants"), on the other part.

WHEREAS, Claimants have filed certain claims in their Statement of Claim and other submissions (hereinafter referred to as the "Statement of Claim") filed with the Iran-United States Claims Tribunal (hereinafter referred to as the "Tribunal") under Case No. 819 against Respondents and "Iran" as defined in the Claims Settlement Declaration.

WHEREAS, Respondents in responding to the Statement of Claim have filed their Statement of Defense and Counterclaims against the Claimants.

WHEREAS, the Parties (the Parties being defined as Respondents and Claimants) have agreed to settle all their claims, disputes, and differences outstanding or capable of arising between them and, or by Claimants against Iran and/or in general all the claims and counterclaims contained in the Statement of Claim, Statements of Defense and Counterclaim, and subsequent submissions.

NOW, THEREFORE, in consideration of and under the conditions set forth herein, the parties agree as follows:

Article I

The scope and subject matters of this Settlement Agreement is to settle, dismiss and terminate forever and with prejudice all disputes, differences, claims, counterclaims and matters directly or indirectly raised or capable of arising out of the relationships, occurrences, rights and interests related to and subject matters of the Statement of Claim and Statement of Defense and Counterclaims filed with the Tribunal, between the Parties and/or against Iran.

Article II

The Parties agree to submit this Settlement Agreement to the Tribunal on or before January 15th, 1989, together with a joint motion requesting the Tribunal to record and give effect to the provisions of this Settlement Agreement as an Arbitral Award on Agreed Terms ("Award on Agreed Terms")

If this Settlement Agreement is not submitted by such date, then it shall become automatically null and void, and the Parties, without prejudicing their respective rights, will be placed in the same position as they were prior to the date of this Settlement Agreement.

Article III

In full, complete and final settlement of all disputes, differences, claims and counterclaims arising out of the rights, interests, relationships and occurrences related to the subject matters of the Statement of Claim, the Statements of Defense and Counterclaims and this Settlement Agreement, and in consideration of the covenants, premises, waivers, withdrawals, and other agreements contained herein, the sum of US \$ 940,000= (nine hundred and forty thousand dollars) (hereinafter the "Settlement Amount"), shall be paid to the Claimants out of the Security Account established pursuant to para 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981.

Article IV

(i) Upon issuance of the Award on Agreed Terms, Claimants shall cause without delay and with prejudice, all proceedings against Respondents and Iran, Iranian banks, companies, entities, organizations, instrumentalities, institutions and divisions, in all courts, fora or any authorities or administrative bodies to be dismissed, withdrawn and terminated

and shall be barred from instituting and/or continuing with any proceedings before the Iran-United States Claims Tribunal or any other fora, authorities, or administrative bodies, whatsoever, including but not limited to any courts in the United States of America or the Islamic Republic of Iran in connection with disputes, differences, claims and matters related to and subject matters of the Statement of Claim, Statement of Defense and Counterclaim and/or their Settlement Agreement.

(ii) Upon the issuance of the Award on Agreed Terms, Respondents shall cause, without delay and with prejudice, all proceedings against Claimants in all courts, fora or any authorities or administrative bodies to be dismissed, withdrawn and terminated and shall be barred from instituting and/or continuing with any proceedings before the Iran-U.S. Claims Tribunal or any other fora, authorities or administrative bodies, whatsoever, including but not limited to any courts in the United States of America or the Islamic Republic of Iran in connection with disputes, differences, claims and matters related to and subject matters of the Statement of Claim, Statement of Defense and Counterclaims, and/or this Settlement Agreement.

Article V

In consideration of the covenants, premises, transfers, waivers and other agreements contained herein, upon the issuance of the Award on Agreed Terms by the Tribunal, Claimants and Respondents shall release and forever discharge each other, and Claimants shall release and forever discharge Iran, Iranian banks, companies, entities, organizations, instrumentalities, institutions and divisions, from any claims (including any claims to Iranian taxes or social security premiums against Claimants), rights, interests and obligations, past, present or future, which have been raised or could have been raised or may in the future be raised in connection with disputes, differences, claims and matters related to the subject matters of the Statement of Claim, Statement of Defense and Counterclaims, and/or this Settlement Agreement.

Article VI

Upon the issuance of the Award on Agreed Terms by the Tribunal, all titles, rights, benefits, and interests of the Claimants, if any, in the properties claimed in the Statement of Claim and other submissions in

Case No. 819 shall be transferred in "as is, where is condition" unconditionally, irrevocably, without any lien or encumbrance and without the right to any recourse to the Shah Goli Apartment Company.

Upon the issuance of the Award on Agreed Terms, this Settlement Agreement shall constitute a bill of sale relinquishing all of the Claimant's rights or entitlements to those properties and transferring them to Shah Goli Apartment Company.

Article VII

Upon the issuance of the Award on Agreed Terms all Claimant's rights and entitlements to the Rial Accounts numbered 10786, 10790, 10791 & 10795 in Bank Tejarat, and/or any funds claimed in the Statement of Claim and subsequent submissions in Case No. 819 shall be transferred unconditionally, irrevocably, without any encumbrance and without the right of any recourse, to the Shah Goli Apartment Company. Claimants shall promptly submit to the Tribunal documents transferring all these accounts to Shah Goli Apartment Company and empowering it to withdraw the funds therein. The Tribunal is requested to hand over the said documents to the Agent of the Islamic Republic of Iran upon the issuance of the Award on Agreed Terms.

Article VIII

Upon the issuance of the Award on Agreed Terms, (i) Claimants shall indemnify and hold harmless Respondents and Iran against any claims

which Claimants, their subsidiaries, parents, affiliates, assignees, transferees, successors, agents or third persons have raised or may raise against Iran, Iranian banks, companies, entities, organizations, and institutions including Respondents, and (ii) Respondents shall indemnify and hold harmless Claimants against any claims including tax and social security premiums which Respondents, their subsidiaries, affiliates, assignees, transferees, successors and agents or Iran have raised or may raise against Claimants or any companies or entities owned or controlled by Claimants or controlling Claimants. The foregoing indemnities and hold harmless agreements shall be limited to claims and counterclaims in connection with and under the same cause or causes or action contained or which could be contained in the Statement of Claim, Statement of Defense and Counterclaims and/or subject matters of this Settlement Agreement.

Article IX

Upon the issuance of the Award on Agreed Terms, Claimants and Respondents shall waive any and all claims for costs (including attorney's fees) arising out of or related to the arbitration, prosecution or defence of the claims asserted before the Iran-U.S. Claims Tribunal, Iranian or United States courts or elsewhere with respect to matters involved in the Statement of Claim, Statement of Defense and Counterclaims, and/or matters which are the subject matters of this Settlement Agreement.

Article X

Upon the issuance of the Award on Agreed Terms, the obligations, declarations, releases, waivers, withdrawals, dismissals, transfer of rights, interests, benefits and titles in properties contained and referred to in this Settlement Agreement shall become self-executing. After the issuance of the Award on Agreed Terms by the Tribunal, no further documents need to be executed in implementing the provisions of this Agreement.

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Article XI

This Settlement Agreement is for the sole purpose of settling the disputes at issue in Case No.819. Nothing in this Settlement Agreement shall be relied upon or construed as relevant to or to affect in any way any argument that Iran, its agencies, instrumentalities, entities and/or Respondents or Claimants have raised, or may raise, concerning jurisdiction or the merits of this case or other cases whether before the Tribunal or any other fora.

Article XII

The Parties agree that this Settlement Agreement shall be approved and ratified by Iranian authorities. Should for any reason whatsoever they choose not to confirm this Settlement Agreement, then it shall become null and void, and in that event no party to this Settlement Agreement may rely upon, cite or publish its terms or any statements made in the course of settlement discussions.

Article XIII

For the purpose of construction and interpretation of this Settlement Agreement, the entire agreement shall be read and construed as a whole without giving any specific effect to any article separately.

Article XIV

The representatives of the Parties hereby expressly declare that they are duly empowered to sign this Agreement.

Article XV

This Settlement Agreement (in four originals) has been written and

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signed in both languages of Persian and English and each text shall have the same equal validity. The representatives of the Parties hereto expressly declare that they are duly empowered to sign this Agreement and their signatures will commit their respective principals to fulfillment of their obligations under this Agreement without any limitations except as may otherwise be contained in this Settlement Agreement.

Ministry of Housing of the Islamic Republic of Iran

By: Mahdi - Moeini
Date: 30 Nov 1988

H & F Kornfeld, Inc.,

By: [Signature]
Date: 11/15/88

Shah Goli Apartment Company

By: Mohsen Rahimi
Date: 30 Nov 1988

Hanfir International Inc.,

By: [Signature]
Date: 11/15/88

Bank Tejarat Iran

By: [Signature]
Date: 30 Nov 1988

SHK Mechanical Corp.

By: [Signature]
Date: 11/15/88

Adkar Mechanical Corp.

Date: 11/15/88
Date: 11/15/88

POWER OF ATTORNEY

Claimants in Case No. 819, before the Iran-United States Claims Tribunal ("Tribunal"), H & F KORNFELD, INC., HANFIR INTERNATIONAL, INC., SHK MECHANICAL CORP., and ADKAR MECHANICAL CORP., acting by and through the undersigned officer of H & F KORNFELD, INC., as legal successor to H & F KORNFELD, INC., HANFIR INTERNATIONAL, INC., SHK MECHANICAL CORP. and ADKAR MECHANICAL CORP., do hereby empower Mark Landau to act as their representative, agent, and attorney-in-fact for purposes of settlement of claims and counterclaims in Case No. 819 in accordance with the terms of the Settlement Agreement of even date.

By executing this power of attorney, Claimants hereby give and grant to Mark Landau full power and authority to do and perform every act necessary and proper to be done in the exercise of the above-mentioned power as fully as they might or could do if personally present, hereby ratifying and confirming all that Mark Landau shall lawfully do or cause to be done by virtue hereof.

This power of attorney shall be effective on November 30, 1988 and shall continue in effect until terminated upon written notice to the Tribunal.

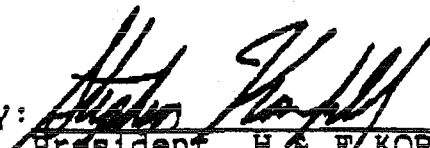
IN WITNESS WHEREOF, Claimants have caused these presents to be executed by the undersigned this 30th day of November, 1988.

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By: 

President, H & F KORNFELD, INC.,
Legal Successor to H & F

KORNFELD, INC., ~~Successor~~ HANFI

INTERNATIONAL ~~to H & F KORNFELD, INC., SHK~~
MECHANICAL CORP. and ADKAR
MECHANICAL CORP.

Sworn to before me, this 30th
day of November, 1988


Notary Public

CAREN MATYCKAS
Notary Public, State of New York
No. 00-4856823
Qualified in Westchester County
Term Expires May 18, 1990