

In the United States Court of Federal Claims

Case No. 93-280C
Filed: October 11, 2006
FOR PUBLICATION

FRANK P. SLATTERY, JR., *et. al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

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Damages; Tax Gross Up; Net Receivership
Claims

Thomas M. Buchanan, Winston & Strawn, LLP, Washington, D.C., for plaintiffs. *Eric W. Bloom* and *Peter K. Dykema*, Winston & Strawn, LLP, Washington, D.C., of counsel.

Steven W. Thomas, Sullivan & Cromwell, LLP, Los Angeles, CA for intervenors, *Bradley P. Smith*, and *Robert S. Landy*, Sullivan & Cromwell, LLP, New York, NY, of counsel.

F. Jefferson Hughes, with whom were *David M. Cohen*, Director, and *Stuart E. Schiffer*, Deputy Assistant Attorney General, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, D.C., for defendant. *Scott D. Austin* and *William G. Kanellis*, Commercial Litigation Branch, of counsel.

FINAL ORDER

SMITH, Senior Judge:

Pursuant to the Court's decisions in this matter dated August 14, 2002, February 10, 2006, and October 11, 2006, and after review of Defendant and Intervenors' objections¹ to Plaintiffs' Proposed Final Order, the Court hereby ORDERS as follows:

1. The Plaintiffs in this matter are awarded \$371, 733,059 in damages.

¹ Defendant and Intervenors' first objection related to issues decided in this Court's October 11, 2006 opinion.

2. The \$371,733,059 shall be paid net of any receivership claims.

3. The \$371,733,059 shall be grossed up to account for any federal corporate income taxes that the IRS may claim against these damages. It is assumed that this amount will be taxed therefore tax gross up is required to do full justice.

4. Counts III-VII (taking claims, rescission claims, and third party beneficiary claim) in Plaintiffs' First Amended Complaint (October 22, 1996), and Plaintiffs' class action claims (¶¶ 10-13), are dismissed with prejudice.²

The Clerk is directed to issue judgment accordingly.

IT IS SO ORDERED.

s /Loren A. Smith
LOREN A. SMITH
Senior Judge

² Defendant requests that Count II also be dismissed. Defendant's Opposition to Plaintiffs' Proposed Final Order, footnote 1. However, the Court has held in its opinion that the 1991 contract was an effect of the 1988 breach. Plaintiffs were forced into this contract by the Government under threat of personal liability owing to their status as directors. Therefore, far from being a contract that absolved the Government, it is a further breach.