

## BEFORE THE INDIAN CLAIMS COMMISSION

SAN CARLOS APACHE TRIBE OF INDIANS	)	
OF ARIZONA AND THE WHITE MOUNTAIN	)	
APACHE TRIBE OF THE FORT APACHE	)	
INDIAN RESERVATION, et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Docket No. 22-D
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER ALLOWING REIMBURSEMENT OF ATTORNEYS' EXPENSES

Having considered the petition filed on May 6, 1976, by the law firm of Weissbrodt & Weissbrodt through I. S. Weissbrodt, attorney of record for the plaintiffs, pursuant to section 15 of the Indian Claims Commission Act, 60 Stat. 1049, 1053, for reimbursement of expenses incurred and paid on behalf of the plaintiffs in connection with the prosecution of the claims in Docket 22-D; having considered also the expense schedules, vouchers, and other documentation supporting the petition, the response to the petition filed on July 13, 1976, by the United States Department of Justice, and the contracts under which counsel prosecuted these claims, the Commission finds as follows:

1. Award.

On September 12, 1972, the Commission entered a final award to the plaintiffs, the San Carlos Apache Tribe of Arizona and the White Mountain Apache Tribe of the Fort Apache Indian Reservation, in the sum of \$4,900,000.00 pursuant to a settlement of the claims by the parties. 28 Ind. Cl. Comm. 399, 421. Funds to satisfy this award were appropriated by Act of October 31, 1972, Pub. L. No. 92-607, 86 Stat. 1498.

The claims in Docket 22-D were originally included in Docket 22, the petition in which was filed on February 3, 1948, by a number of individual Indians on behalf of the Apache Nation and by the Apache Tribe of the Mescalero Reservation. The San Carlos Apache Tribe and the White Mountain Apache Tribe, among others, joined the Mescalero Apaches upon the filing of the first amended petition in Docket 22 on October 18, 1950.

Later, pursuant to Commission orders, the claims in Docket 22 were separated into nine amended petitions designated respectively as Dockets 22-A, 22-B, 22-C, 22-D, 22-E, 22-F, 22-G, 22-H, and 22-J. The claims in

Docket 22-D were separated from Docket 22 by Commission order of May 25, 1959. The claims in Docket 22-J, which were included in Docket 22-D, were separated therefrom and designated Docket 22-J pursuant to Commission order of October 10, 1961.

## 2. Attorneys' Contracts.

The claims in Docket 22-D were prosecuted pursuant to contracts with the plaintiff tribes which are identified in the Commission's finding no. 2 in its order of November 29, 1972, allowing attorneys' fee. 29 Ind. Cl. Comm. 170. The current contract with the San Carlos Apaches (Symbol 14-20-0450, Contract No. 5831), and that with the White Mountain Apaches (Symbol 14-20-0450, Contract No. 5828) both provide for the reimbursement of actual expenses from the judgment recovered.

## 3. Petition for Reimbursement of Expenses.

During the early years of prosecution of this claim before Docket 22 was separated into the above-designated dockets, counsel for the plaintiffs did not allocate expenses to particular claims but attributed all expenses in Docket 22 to all the claims therein. These expenses are itemized in the petitioner's Expense Exhibit I. Since the Docket 22 claims were separated into nine dockets, the petitioner considered it reasonable and appropriate to allocate to Docket 22-D one-ninth of the total of such expenses.

Expense Exhibit II itemizes the additional expenses incurred by counsel which are applicable to the claims in Docket 22-D.

Vouchers in support of the expenses in both exhibits have been filed with the Commission. The petition requests reimbursement of the following expenses:

	\$ 146.49, for one-ninth of the total expenses shown in Expense Exhibit I.
	46,829.47, for total expenses shown in Expense Exhibit II.
Total	\$46,975.96

## 4. Notice.

By letters of May 11, 1976, the Commission notified all parties of the filing of subject petition and allowed two weeks' time for filing replies. The Commission has not received a reply from either of the plaintiff tribes.

## 5. Responses.

The Department of Justice took no position regarding the petition. It forwarded to the Commission a copy of a letter of June 22, 1976, from

the Associate Solicitor of Indian Affairs, Department of the Interior, with a memorandum of June 3, 1976, to the Solicitor from the Commissioner of Indian Affairs on the subject petition. The Associate Solicitor had no objection to allowance of the expenses claimed. The Commissioner's memorandum stated that a representative of the Bureau examined the petition and supporting documents and concluded that the expenses for which reimbursement was requested were supported, generally, by invoices, receipts, canceled checks, ledger entries, and like evidence which the petitioner filed. The Commissioner of Indian Affairs concluded that the method of allocating expenses was reasonable and fair, and found no objection to allowance of the expenses claimed.

6. Determination of Expenses.

Section 15 of the Indian Claims Commission Act (60 Stat. 1049) provides for the reimbursement of reasonable expenses incurred in the prosecution of the claim. After examination of the petition herein, the record of expenditures by the attorneys in prosecuting the claims, and the supporting evidence, the Commission concludes that the expenses in subject petition are reasonable and permissible expenses which should be allowed.

7. Conclusion.

On the basis of the foregoing findings, the Commission concludes that the sum of \$46,975.96 is reasonable and proper for reimbursement of the expenses of litigation herein.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on September 12, 1972, there shall be disbursed to the law firm of Weissbrodt and Weissbrodt the sum of \$46,975.96 as full reimbursement for expenditures incurred in the prosecution of this case.

Dated at Washington, D. C., this 2nd day of September 1976.

  
Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner