

BEFORE THE INDIAN CLAIMS COMMISSION

PAPAGO TRIBE OF ARIZONA,)	
)	
Plaintiff,)	
)	Docket No. 102
v.)	
)	Docket No. 345
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: November 24, 1976

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' FEES

Having considered the application for attorneys' fees filed on August 13, 1976, by Royal D. Marks, attorney of record in these dockets, on behalf of the law firm of Marks & Marks; the defendant's response filed on October 19, 1976; the contract and amendments thereto under which legal services have been performed herein; the supporting documents and affidavit; and the entire record of all proceedings in these dockets; the Commission finds and orders as follows:

1. Award. On July 21, 1976, the Commission entered a final award in the amount of \$26,000,000 in favor of the plaintiff tribe, 38 Ind. Cl. Comm. 542, 559. The final award was entered upon the joint motion of the parties for entry of final judgment under Dockets 102 and 345, pursuant to a stipulation between the parties for settlement and entry of final judgment in these dockets. Funds to satisfy the judgment were appropriated by Public Law 94-438, approved September 30, 1976.

2. Contract Authority. These claims have been prosecuted pursuant to attorneys' contract No. I-1-42425, dated July 14, 1950, between the Papago Tribe and the law firm of Marks & Marks of Phoenix, Arizona. The contract was approved by the Department of the Interior on November 29, 1950, for a period of ten years from that date. This contract was superseded by an amended contract dated July 31, 1959, which extended its terms for another ten years from and after November 29, 1960. It was again extended for a period of ten years from and after November 28, 1970. Therefore, contract No. I-1-ind. 42425 (now designated as contract No. I-1-ind. 5276) is currently in full force and effect. The contract provides that the attorneys shall receive as compensation ten percent of any and all sums recovered for the Indians.

3. Fee Application. The application for attorneys' fees filed herein by Royal D. Marks, on behalf of the firm of Marks & Marks, is made pursuant to the approved attorneys' contract and requests the allowance of fees in the amount of \$2,600,000, which is ten percent (10%) of the final award entered in these dockets.

4. Notice to Parties. A notice of the filing of the fee application herein was mailed on August 13, 1976, by the Clerk of the Commission to the Chairman of the Papago Tribe, the Department of Justice, and to the Commissioner, Bureau of Indian Affairs, U. S. Department of the Interior. No response from the plaintiff tribe has been received by the Commission.

The defendant's response received on October 19, 1976, included a copy of a letter from the Assistant Solicitor for Indian Affairs, Department of the Interior, addressed to the Department of Justice and forwarding to that department a copy of a memorandum from the Commissioner of Indian Affairs. The Commissioner's statement, to which the Solicitor's Office concurred, indicated that the amount of the fee claimed (\$2,600,000) was in accordance with the terms of the attorneys' contract and did not, therefore, interpose any objection to the allowance thereof. The Department of Justice takes no position in the matter according to its October 19, 1976, letter.

5. Attorneys' Services and Fees. The attorneys herein, in the discharge of their contractual obligation, have rendered valuable professional services to their client in the successful prosecution before this Commission of the claims asserted in Dockets 102 and 345, and they are entitled, pursuant to Section 15 of the Indian Claims Commission Act and the terms of the aforementioned contracts, to attorneys' fees in the amount claimed.

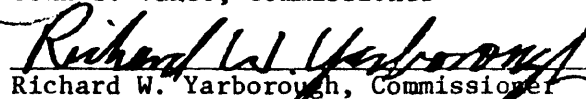
IT IS THEREFORE ORDERED that out of the funds appropriated by Public Law 94-438, approved September 30, 1976, to pay the final award entered herein on July 21, 1976, in favor of the Papago Tribe of Arizona, there shall be disbursed to Royal D. Marks, on behalf of the law firm of Marks & Marks, the sum of \$2,600,000 for distribution by him to all participating attorneys or their legal representative in accordance

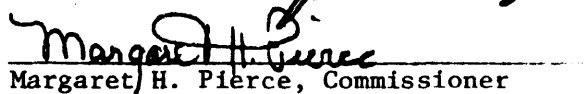
with the interest, if any, such participating attorneys may have therein. This amount represents payment in full for all services rendered in the prosecution of these dockets before this Commission.

Dated at Washington, D. C., this 24th day of November 1976


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner