

BEFORE THE INDIAN CLAIMS COMMISSION

THE PAPAGO TRIBE OF ARIZONA)	
)	
Plaintiff,)	
)	
v.)	Docket Nos. 102 and 345
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: February 16, 1977

FINDINGS OF FACT AND ORDER ALLOWING
REIMBURSEMENT OF ATTORNEYS' EXPENSES

Having considered the petition for reimbursement of expenses filed on October 27, 1976, and the amended petition filed on January 31, 1977, by Royal D. Marks, attorney of record, on behalf of the firm of Marks and Marks; the record in these dockets; and the attorneys' contract of employment; 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 plaintiff, (38 Ind. Cl. Comm. 542, 559). Funds to satisfy this judgment were appropriated by Public Law 94-438, approved September 30, 1976.

2. Attorneys' Fees. The Commission approved an attorneys' fee of \$2,600,000 by order of November 24, 1976, (39 Ind. Cl. Comm. 181).

3. Attorneys' Contract. Attorneys' services in these dockets were originally performed under Contract No. I-1-ind. 42425, between the Papago Tribe and the firm of Marks and Marks, dated July 14, 1950. This contract was approved by Department of the Interior on November 29, 1950, for a

period of ten years from that date. Contract No. I-1-ind. 42425 was superseded by an amended contract that extended the term of contract from November 29, 1960, the date of approval, for a period of ten years. The contract was again amended by Contract No. I-1-ind. 5276 to extend the period for ten more years from November 28, 1970, the date of approval. Therefore, Contract No. I-1-ind. 42425, now designated as Contract No. I-1-ind. 5276, is currently in full force and effect.

4. Contractual Provisions for Reimbursement of Expenses. The contract, as amended, authorizes the reimbursement of reasonable and necessary attorneys' expenses incurred in the prosecution of these dockets. Expenses may include but are not limited to technical and stenographic assistance, compensation for mileage when personal vehicle is used, long distance telephone calls and telegrams, cost of printing or reproducing documents, printing of briefs, court reporters, and authorized expenses incurred by associated lawyers employed under the Joint Efforts Agreement.

5. Notice to Parties. A notice of the petition for reimbursement of attorneys' expenses was mailed on October 28, 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, Department of the Interior.

The plaintiff tribe has not responded to the Commission's letter. The defendant's response, dated November 29, 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 Acting Deputy Commissioner for Indian Affairs. The Acting Deputy Commissioner's statement, with which the Solicitor's office concurred, indicated that on the basis of a general examination of the petition and supporting documents, the items claimed for reimbursement were found to be in accordance with the attorneys' contract, were supported by invoices and receipts, and were reasonable and proper for reimbursement. The Department of Justice takes no position in the matter according to its letter dated November 29, 1976.

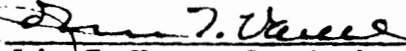
6. Attorneys' Expenses. The expenses claimed by Royal D. Marks, on behalf of the firm of Marks and Marks, in the amount of \$3,493.45, are reasonable and proper for reimbursement.

IT IS THEREFORE ORDERED that out of funds appropriated by Public Law 94-438, approved September 30, 1976, to pay the final judgment 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 firm of Marks and Marks, the sum of \$3,493.45 for distribution by him of the amount due to each of the participating attorneys entitled to reimbursement of expenses. This amount represents payment in full for all authorized expenses incurred in the prosecution and settlement of these dockets.


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner