

## BEFORE THE INDIAN CLAIMS COMMISSION

THE MESCALERO APACHE TRIBE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket No. 22-B
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: March 9, 1977

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' EXPENSES

Having considered the application for the reimbursement of attorneys' expenses in this docket filed on October 26, 1976, by I. S. Weissbrodt, and the entire record herein, the Commission makes the following findings of fact.

1. Award. On April 27, 1967, the Commission entered a final judgment and award in favor of the plaintiffs in the total amount of \$8,500,000.00, pursuant to a joint motion by the parties for entry of final judgment in this docket. 18 Ind. Cl. Comm. 367. Funds to cover the award were appropriated by the Act of May 29, 1967, (P. L. 90-21), 81 Stat. 30.

2. Expense Application. The expense application under consideration was filed on October 26, 1976, by I. S. Weissbrodt, attorney of record in this docket, on behalf of the law firm of Weissbrodt & Weissbrodt. The application seeks reimbursement of costs and expenses incurred and paid by said firm in the amount of \$4,203.95 on behalf of plaintiffs in

connection with the prosecution of the claim in this docket. This application, made pursuant to section 15 of our Act, the Commission's General Rules of Procedure and the attorneys' contracts with the plaintiffs, requests reimbursement for the following expenses:

A. Purchase of Materials and Services:	\$2,691.43
B. Compensation of Experts:	400.00
C. Travel Expenses of Attorneys:	527.59
D. Long Distance Telephone:	225.65
E. Fares:	154.75
F. Extra Postage - Delivery Charges:	58.04
H. Allocated Joint Expenses:	146.49
Total	<u>\$4,203.95</u>

3. Attorneys' Contracts. Our findings of fact Nos. 3, 4, and 5 which accompanied our order dated May 11, 1967, allowing attorneys' fees in this docket sets forth the details of the attorneys' contracts which were in force during the period the expenses herein were incurred. 18 Ind. Cl. Comm. 398, 411 (1967). Said findings are hereby incorporated by reference, except as otherwise discussed below.

The attorneys' contracts in this docket provided that the contract attorneys shall be allowed and reimbursed such actual expenses paid and advanced by said attorneys which are strictly necessary and proper in connection with the prosecution of the claim. Reimbursable expenses included, among others, all travel and related costs, printing and duplication costs, publications required as exhibits, and stenographic, clerical, and expert assistance expenses.

4. Notice to Parties. Pursuant to the Commission rules, notices of the filing of this application were mailed on October 28, 1976, by the Clerk

of the Commission to the tribal representative, to the Department of Justice, and to the Department of the Interior. The notice requested that any comments or information on the expense application should be filed with the Commission within two weeks from the date of the notice. No objections or other comments have been received to date from the tribal representative.

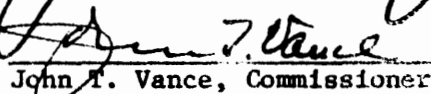
On December 2, 1976, the Department of Justice responded to the Commission's notice of subject application by taking no position in regard to the reimbursement of the claimed expenses in this docket. The response of the Justice Department also included a copy of a letter dated November 23, 1976, from the Assistant Solicitor, Division of Indian Affairs, Department of the Interior, and a copy of a memorandum of November 19, 1976, from the Acting Deputy Commissioner of Indian Affairs addressed to the Solicitor (Interior Department). The Commissioner's memorandum, with which the Solicitor concurred, stated that the attorney expenses claimed were supported by invoices, receipts, cancelled checks, and ledger entries, and therefore the Bureau of Indian Affairs had no objections to the allowance of the expenses claimed.

5. Determination of Expenses. Pursuant to section 15 of our Act, Rule 34(b) of the Commission's Rules of Procedure (25 C.F.R. §503.34(b)), as amended, 39 Fed. Reg. 41173 (1974), the Commission's Policy Statement §102, issued July 15, 1968, the findings of fact entered herein, and, upon examination of the subject application, the attorneys' contracts with the plaintiffs, and the entire record of expenditures incurred in the prosecution of the claims in this docket, the Commission concludes

that the claimed expenses herein in the amount of \$4,203.95, as summarized in finding 2, supra, are reasonable and proper and should be allowed.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the award entered in this docket, there shall be disbursed to I. S. Weissbrodt, on behalf of the law firm of Weissbrodt & Weissbrodt, the sum of \$4,203.95 as reimbursement in full for attorney expenses incurred by said firm or its predecessors in the prosecution of the claim in Docket 22-B.

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner