

BEFORE THE INDIAN CLAIMS COMMISSION

THE SWINOMISH TRIBE OF INDIANS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 233
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEY'S EXPENSES

HAVING CONSIDERED the petition for allowance of attorney's expenses filed on September 18, 1972, by Frederick W. Post, esquire; the plaintiff's response filed on October 2, 1973; the attorney contract under which Mr. Post served the plaintiff; and the supporting documents submitted by Mr. Post; the Commission finds as follows:

1. Award and Attorney Contracts. Our findings 1 and 2 made as a part of our Order Allowing Attorneys' Fee, 30 Ind. Cl. Comm. 4 (1973), setting forth details of the award and attorney contracts, in this proceeding, are hereby incorporated by reference.

2. Contract Provision for Attorney Expenses. The 1971 attorney contract between Mr. Post and the plaintiff authorizes Mr. Post to "employ such technical or stenographic assistance considered necessary to fulfill the obligations" of the contract. The contract also provides that the attorney shall be reimbursed from any judgment received by the tribe, such actual, unreimbursed expenses incurred by the attorney as are allowed by this Commission in accordance with Section 15 of the Act of August 13, 1946, Public Law 726.

3. Attorney Expenses. The petition for allowance of attorney's expenses requests compensation for total expenses of \$544.99. This sum is comprised of \$24.36 for Xeroxing findings of fact; \$6.63 postage for mailing the findings; \$14.00 travel expenses at ten cents per mile to attend a tribal meeting on the Swinomish Indian Reservation; and \$500.00 for the anthropologist's report on Swinomish tribal areas.

4. Notice to Parties. Notice of the filing of the application for allowance of attorney's expenses together with copies of the application and the statement in support thereof, was mailed by the Deputy Clerk of the Commission on September 18, 1972, to:

- a. Martin J. Sampson, Chief and Chairman, Swinomish Tribe,
- b. Honorable Louis R. Bruce, Commissioner, Bureau of Indian Affairs, U. S. Department of the Interior, and
- c. Honorable Kent Frizzell, Assistant Attorney General, Land and Natural Resources Division, Indian Claims Section, U. S. Department of Justice.

5. Plaintiff's Response. The plaintiff, through its Chief and Chairman, Mr. Martin J. Sampson, replied to the notice on September 28, 1972. The reply, which was filed on October 2, 1972, stated that the Swinomish Tribal Council approved attorney's expenses of \$544.00.

6. Defendant's Response. The Department of Justice responded to the notice on February 21, 1973, taking no position on the claimed expenses. Transmitted with the Department of Justice's response was a copy of letter dated February 9, 1973, from the Associate Solicitor for Indian Affairs of the Department of the Interior and a copy of a memorandum dated January 26, 1973, from the Deputy Assistant Secretary of Management and Budget, Department of Interior. Both transmittals indicated that there was no objection to the allowance of the requested expenses, other than the fact that Attorney Post had not supported the expenses with the usual receipts, bills, or statements.

7. Documentation of Expenses. On November 14, 1972, this Commission notified Mr. Post that it could not consider the claims for attorney's expenses herein until proper documentation thereof was received. By a letter of transmittal dated March 23, 1973, Mr. Post submitted to this Commission a copy of his attorney contract with the plaintiff, statements and cancelled checks for Xeroxing and postage expenses in the amount of \$30.99, and a facsimile promisory note from himself to the anthropologist for \$500.00.

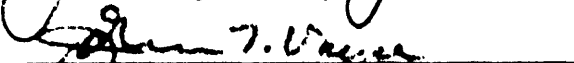
8. Approval of Expenses. The Commission finds that Frederick W. Post is entitled to reimbursement of attorney's expenses in the amount of \$544.99.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on July 6, 1972, in favor of the Swinomish Tribe, there shall be disbursed to Frederick W. Post the sum of

\$544.99 as payment in full of his expenses incurred in the prosecution of this case.

Dated at Washington, D. C., this 19th day of June 1974.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner

Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner