

BEFORE THE INDIAN CLAIMS COMMISSION

THE FORT SILL APACHE TRIBE OF)	
OKLAHOMA: THE CHIRICAHUA)	
APACHE TRIBE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket Nos. 30, 48,
)	30-A, and 48-A
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: December 26, 1974

FINDINGS OF FACT ON ATTORNEY EXPENSES
OF WILLIAM A. SLOAN

The Commission makes the following findings of fact.

1. Petition for Reimbursement of Attorney Expenses. On June 24, 1974, Mr. William A. Sloan petitioned this Commission for reimbursement of \$8,049.93 of expenses paid by the firm of Rodey, Dickason, Sloan, Akin & Robb at his direction as an associate attorney for the Chiricahua and Warm Springs Tribes of Apache Indians, plaintiffs in Dockets 48 and 48-A. The petition was accompanied by an affidavit by Mr. Sloan, concerning the expenses. It was supported in part by copies of check vouchers and cancelled checks.
2. Award and Attorney Contracts. On November 7, 1973, we issued findings of fact on attorneys' fee in this proceeding, in respect to a petition for award of attorneys' fee filed by I. S. Weissbrodt. See 32 Ind. Cl. Comm. 216. Our findings 1 and 4 thereof, setting forth details of the award and attorney contracts in this proceeding, are hereby incorporated by reference.

In short, Mr. Sloan was an associate of attorney Roy T. Mobley and Guy Martin, under an agreement approved on July 23, 1957, effective as of March 1, 1957, by the Bureau of Indian Affairs, under Mr. Mobley's amended, assigned and extended attorney contract with the Chiricahua and Warm Springs Apache Tribes, plaintiffs in Dockets 48 and 48-A. The original contract No. I-1-ind. 42132, dated March 5, 1948, had been amended on September 30, 1948, striking out all provision for reimbursement of attorney expenses. No subsequent provision for attorney expenses was ever inserted in the contract.

3. Notice to Parties. Notice of the filing of Mr. Sloan's petition for reimbursement of attorney expenses, together with copies of the petition and of the supporting affidavit, were mailed by the Deputy Clerk of the Commission on July 3, 1974, to:

- a. Mr. Talbert A. Gooday, Chairman, Fort Sill Apache Tribe,
- b. Mr. Wendell Chino, President, Apache Tribe of the Mescalero Reservation,
- c. Honorable Morris Thompson, Commissioner, Bureau of Indian Affairs, U. S. Department of the Interior, and
- d. Honorable Wallace N. Johnson, Assistant Attorney General, Land and Natural Resources Division, Indian Claims Section, U. S. Department of Justice.

4. Response of Fort Sill Apache Tribe. The Chairman of the Fort Sill Apache Tribe replied to the notice on July 12, 1974. In his reply, which was filed on July 16, 1974, the chairman stated that the tribe had no

dealings with Mr. Sloan and had no information regarding his expenses. The chairman questioned Mr. Sloan's payments to Mr. Mobley for secretarial services; opined that the rate of 25¢/page of thermofax and photostat appeared excessive; and requested that this Commission verify Mr. Sloan's entitlement to reimbursement.

5. No Response by Apache Tribe of the Mescalero Reservation. The Chiricahua and Warm Springs Apache Tribes of the Mescalero Reservation have not responded to the Commission's notice of Mr. Sloan's petition for reimbursement of expenses.

6. Defendant's Response. The Department of Justice responded to the notice on August 20, 1974, stating that it takes no position in respect thereto.

Enclosed with the response, which was filed on August 21, 1974, was a copy of a letter dated July 30, 1974, from the Associate Solicitor for Indian Affairs, United States Department of Interior, transmitting a copy of a memorandum dated July 30, 1974, from the Acting Deputy Commissioner of Indian Affairs. The Commissioner pointed out that the first two items on p. 3 of Mr. Sloan's petition are dated prior to the July 23, 1957, approval of Mr. Sloan's association with Mr. Mobley. We note, however, that although said approval was not granted until July 23, 1957, it was retroactively effective as of March 1, 1957, which predates the first two items on page 3 of Mr. Sloan's petition. The Commissioner questioned apparent overlap of payments by Messrs. Sloan and Mobley for secretarial services and payments of \$165.81 and \$78.03 to the Albuquerque Typewriter

Exchange without supporting invoice, bill or itemized statement. In addition the Commissioner questioned the fact that there were no statements showing services rendered by experts, and no copies of referred to agreements with the experts, and the fact that the experts' expenses included "insurance reimbursable" and "accident damage."

7. Duplication of Expenses Claimed by Attorney Roy T. Mobley.

Because of apparent duplication of expenses claimed by attorneys Sloan and Mobley, this Commission requested that they coordinate their petitions for reimbursement of attorney expenses. In consequence thereof, Mr. Mobley, through his attorney, filed a second amended petition on October 23, 1974, deleting from his claimed travel expenses, three items for which he had been reimbursed by Mr. Sloan, and which are properly listed on Mr. Sloan's petition. Mr. Mobley also submitted an affidavit explaining the apparent overlap of payments by himself and Mr. Sloan for secretarial services.

8. Sloan Expenses Questioned by the Commission. On November 12, 1974, we wrote to Mr. Sloan raising questions and seeking additional information concerning payments to Mr. Mobley for secretarial services; payments to Manpower, Inc., and to the several anthropologists; and travel expenses of Messrs. Briggs, Mobley, and Sloan. Mr. Sloan's reply, received on December 11, 1974, answered most of the questions to our satisfaction. Transmitted with the reply was a copy of the employment agreement between the Chiricahua and Warm Springs Apaches and anthropologists Hammel and Dawson; and a typed copy of ledger entries of payments to the anthropologists.

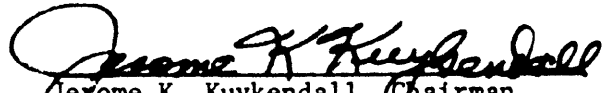
9. Disallowable Expenses. The following expenses will be disallowed.

<u>Date</u>	<u>Item</u>	<u>Amount</u>
4/14/1957	Miscellaneous expense for which no explanation is given other than that is was in connection with an auto trip to Mescalero, for which \$34.40 milage is also requested	\$ 8.40
8/17/1957	Payment to anthropologist Dawson for accident damage. Claim is for \$30.66 whereas payment was for \$30.65.	.01
3/13/1961	Travel advance to attorney Roy T. Mobley for three day trip to Washington, D.C. to confer with other counsel over prosecution of the claim. No justifying itemization of expenses was submitted as required by Commission Rule of Procedure No. 34b(a). Although Mr. Sloan states that this advance included air fare, the next item on the petition is for \$679.32 round trip air fare to Washington, D. C. for Messrs. Mobley, Sloan and Briggs, apparently for the same trip.	250.00
3/14 through 3/17/1961	Expenses for W. C. Briggs' trip to Washington. No justifying itemization of expenses was submitted.	90.30
3/14 through 3/17/1961	Expenses for W. A. Sloan's trip to Washington. No itemization of expenses was submitted as required by Commission Rule 34b(a).	126.81
Total disallowable expenses:		\$475.52

10. Allowable Expenses. The balance of the claimed expenses, in the amount of \$7,574.41, are allowable.

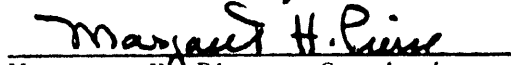
11. Conclusion. The Commission concludes that Mr. William A. Sloan,

on behalf of the firm of Rodey, Dickason, Sloan, Akin & Robb, is entitled to receive \$7,574.41, in reimbursement of his expenses as an attorney in this proceeding.


Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner