

BEFORE THE INDIAN CLAIMS COMMISSION

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

ORDER ALLOWING REIMBURSEMENT OF ATTORNEYS' EXPENSES

HAVING CONSIDERED the application for allowance of attorneys' expenses filed on November 26, 1974, by the law firm of Weissbrodt and Weissbrodt, attorney for the Fort Sill Apache Tribe and the Chiricahua and Warm Springs Apache Tribes, the contracts under which the said firm and its predecessor served the tribes, the defendant's response to the application, and the remainder of the record herein, the Commission finds as follows:

1. Award

A final award was entered on August 25, 1971 (26 Ind. Cl. Comm. 193, 198), in favor of the plaintiffs herein for the sum of \$16,489,096.00. Funds to satisfy the award were appropriated by the Act of January 3, 1974 (87 Stat. 1071).

2. Contracts

Plaintiff, the Fort Sill Apaches, entered into a contract (No. 14-20-0200-1838) as of December 5, 1963, with attorneys I. S. Weissbrodt, Abe W. Weissbrodt, and Morton Liftin. The contract was approved for a term extending to January 12, 1969, and thereafter, by approved amendments, was extended until January 12, 1977. The claims in these dockets were brought to final judgment while this contract was in force and effect.

The foregoing contract made December 5, 1963, succeeded an earlier contract which was entered into as of June 25, 1953, by the Fort Sill Apaches with attorneys I. S. Weissbrodt, Abe W. Weissbrodt, and David Cobb and was approved by the Commissioner of Indian Affairs on January 13, 1954 (No. 14-20-650, Contract No. 120). The term of this contract was for ten years beginning with the date of its approval by the Commissioner.

Prior to the making of the contract of June 25, 1953, two earlier attorney contracts had been entered into with the Fort Sill Apache. One of these was a contract with Grady Lewis, Esq., which was dated January 20, 1947, and was approved on July 15, 1947 (No. I-1-ind. 42006). Under date of February 27, 1950, Grady Lewis, Esq., executed an assignment conveying a portion of his interest in the 1947 contract to the law firm of Cobb and Weissbrodt, the assignment having been approved by the Bureau on April 12, 1950. The other earlier contract which had been made with Grady Lewis, Esq., on December 1, 1939, was approved by the Assistant Secretary of the Interior on February 15, 1940 (No. I-1-ind. 12642). This contract was for a term of five years beginning with its approval, and it expired by its own provisions.

Grady Lewis, Esq., died on January 3, 1953. Esther H. Lewis, as Executrix of Grady Lewis, and as sole beneficiary and distributee under the Last Will of Grady Lewis, Esq., for value received, executed an assignment to the law firm of Weissbrodt and Weissbrodt of all her rights, title, and interest under each of the foregoing attorney contracts, which assignment was approved by the Bureau of Indian Affairs.

The 1953 and 1963 contracts with the Fort Sill Apaches authorized the attorneys to employ such technical or stenographic assistance in respect to their obligations under the contracts as they may deem necessary, the same to be paid as expenses incidental to their employment

Under date of March 5, 1948, the Chiricahua and Warm Springs Apache Tribes entered into a contract with Roy T. Mobley, Esq. This contract, as amended September 30, 1948, was approved by the Bureau of Indian Affairs on January 7, 1949 (No. I-1-ind. 42132). The term of the contract was for ten years from the date of its approval. By instrument dated April 3, 1950, Roy T. Mobley, Esq., assigned his interest in the contract to Guy Martin, Esq., which assignment was approved by the Bureau on April 26, 1950.

On April 29, 1957, the Bureau approved, as an assignment by Guy Martin to Roy T. Mobley, an agreement reemploying Roy T. Mobley as attorney under the contract in association with Guy Martin. On July 23, 1957, the Bureau approved an agreement whereby William A. Sloan, Esq., became associated as an attorney under the contract with Roy T. Mobley and Guy Martin. On July 12, 1960, the Solicitor of the Department of the Interior approved a further agreement whereby the contract with attorneys Roy T. Mobley, Guy Martin, and William A. Sloan was extended, as of January 7, 1959, for a ten year period thereafter. This contract was extended for an additional period of five years from January 7, 1969.

On January 16, 1963, the Bureau of Indian Affairs approved the association of the attorneys employed under the contract with the Chiricahua and Warm Springs Tribes of Apaches with the attorneys employed under the contract of June 25, 1953, with the Fort Sill Apaches, in connection with the prosecution of the aboriginal title claim then pending in Dockets 30 and 48.

3. Application for Reimbursement of Expenses

On November 26, 1974, the law firm of Weissbrodt and Weissbrodt, by I. S. Weissbrodt, attorney of record for the Fort Sill Apache Tribe of Oklahoma and the Chiricahua and Warm Springs Apache Tribes, filed its petition for reimbursement of expenses totalling \$14,066.13. On May 1, 1975, the firm filed additional documentation in support of the petition. At that time it was discovered that an error of \$9.03 had been made in transcribing the listed expenses from the vouchers and that this sum should be added to the original expense listing of \$14,066.13. Accordingly, the total amount of the expenses incurred for which reimbursement is requested is \$14,075.16.

4. Notice to Parties

Notice of the filing of Weissbrodt and Weissbrodt's petition for reimbursement of attorney expenses, together with copies of the petition, were mailed by the Deputy Clerk of the Commission on November 29, 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.

5. No Response by the Fort Sill Apache Tribe

The Fort Sill Apache Tribe have not responded to the Commission's notice of Weissbrodt and Weissbrodt's petition for reimbursement of expenses.

6. No Response by the Chiricahua and Warm Springs Apache Tribe of the Mescalero Reservation

The Chiricahua and Warm Springs Tribes of the Mescalero Reservation have not responded to the Commission's notice of Weissbrodt and Weissbrodt's petition for reimbursement of expenses.

7. Defendant's Response

The Department of Justice responded to the notice of November 29, 1974, stating that it takes no position in respect thereto.

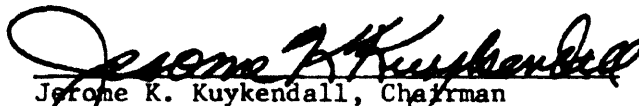
Enclosed with the response, which was filed on February 27, 1975, was a copy of a letter dated February 4, 1975, from the Assistant Solicitor, Division of Indian Affairs, U. S. Department of the Interior, transmitting a copy of a memorandum dated January 20, 1975, from the Acting Deputy Commissioner of Indian Affairs. The Deputy Commissioner was satisfied as to the reasonableness of the total expenses claimed, but felt that there were insufficient receipts to support some of them.

8. Conclusion


The Commission finds that the documentation submitted by Weissbrodt and Weissbrodt is sufficient to support the expenses claimed and that all the claimed items of expense are reasonable and proper expenses of the litigation in this matter and should, therefore, be allowed.

IT IS THEREFORE ORDERED that out of the funds heretofore appropriated to pay the final award herein, the sum of \$14,075.16 shall be disbursed to the law firm of Weissbrodt and Weissbrodt as full reimbursement to said firm of all its actual expenses incurred in the prosecution of this case.


Dated at Washington, D. C., this 15th day of May 1975.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner