

BEFORE THE INDIAN CLAIMS COMMISSION

THE PUEBLO de ACOMA,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 266
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEYS' FEE

HAVING CONSIDERED the application for allowance of attorneys' fee filed on July 2, 1970, by Nicholas C. Dazzo and Sam Dazzo, attorneys of record for the above-named plaintiff, the contracts under which the attorneys served the said plaintiff, the defendant's response to the application filed on January 6, 1971, and the remainder of the record herein, the Commission finds as follows:

1. On June 17, 1970, in consonance with an approved settlement agreement between the parties, the Commission entered a final judgment in this docket in the amount of \$6,107,157.00 in favor of the Pueblo de Acoma (23 Ind. Cl. Comm. 219, 235). Funds to satisfy this judgment were appropriated by Public Law 91-665, approved January 8, 1971. After a correction requested by the attorneys of record in a letter dated January 12, 1971, their application prays for an allowance of an attorneys' fee in the sum of \$603,065.70, comprising ten per cent of the said final judgment less \$7,650.00 heretofore paid to the attorneys as compensation by the Pueblo de Acoma.

2. The representation herein of the Pueblo de Acoma was initially under a contract, No. I-1-ind. 42154, that the Pueblo de Acoma entered into with Sam Dazzo on December 27, 1948. This contract had a specified term of 3 years commencing with its date of approval. It was approved on July 26, 1949, subject to certain conditions that the parties accepted. Under subsequent agreements between the parties the contract was extended for a period of 5 years commencing on July 26, 1952, which extension was approved on August 27, 1956. On June 19, 1958, the Pueblo de Acoma entered into a new contract, No. 14-20-650-576, with Sam Dazzo and Nicholas C. Dazzo. This contract was approved on August 8, 1958 and had a specified term of 5 years commencing on July 26, 1957. Under approved agreements between the parties contract No. 14-20-650-576 was twice extended for periods of 5 years. The last extension was approved on July 6, 1967 and its term of 5 years commenced on July 26, 1967.

3. Both of the aforementioned contracts provide for compensation of the attorneys in the amount of ten percent (10%) of the gross amount recovered by them for the Indians less the total of the payments made under a provision in the contracts for compensation of the attorneys at the rate of \$30.00 per month. The attorneys acknowledge the receipt of payments under the latter provision totaling \$7,650.00.

4. The defendant's response to the application enclosed a copy of a letter dated December 3, 1970, from the Associate Solicitor, Division of Indian Affairs, Department of the Interior, and a copy of an accompanying memorandum dated August 5, 1970, from the Associate Commissioner of Indian Affairs and concludes with the comment that the "Defendant has no reason to object to the allowance of fees in the amount requested, which are in accordance with the Indian Claims Commission Act and the several contracts involved, provided that the record shows the payments totaling \$7,650 referred to above [made under the contract provision mentioned in the preceding paragraph]." The letter from the Associate Solicitor refers to the memorandum from the Associate Commissioner of Indian Affairs and indicates that this memorandum advises that the applicable tribal claims attorney contracts provide for attorney fees of ten per cent of any and all sums recovered for the Pueblo less monthly retainers paid to the attorneys, that the fee requested is ten per cent of the \$6,107,157.00 recovered for the Pueblo less \$7,650.00 paid in retainers to the attorneys, and that the Associate Commissioner "states he has no objection to the allowance of attorneys' fees as requested" and concludes by stating: "We concur in this position."

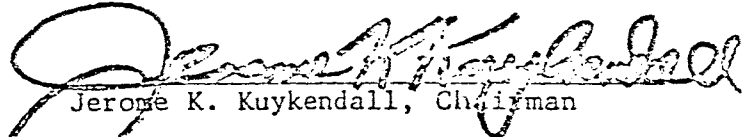
5. A notice of the filing of the attorneys' application for allowance of attorneys' fees was duly mailed to the Governor of the Pueblo de Acoma Tribal Council on July 7, 1970. No response to this notice was received. However, on July 6, 1970, the day before the said notice was mailed, the Commission received from the Governor a certified resolution of The Pueblo de Acoma Tribal Council in support of the attorneys' application.

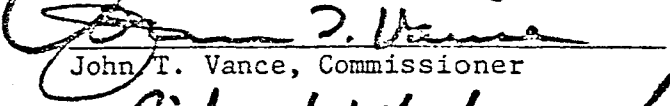
6. The attorneys have rendered valuable legal services to the Pueblo de Acoma in the successful prosecution of the Pueblo's claims asserted herein, and they are entitled under the terms of the aforementioned contracts to a fee in the requested net sum of \$603,065.70.

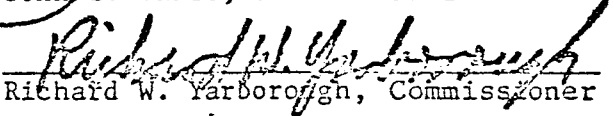
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the aforementioned judgment in favor of The Pueblo de Acoma there shall

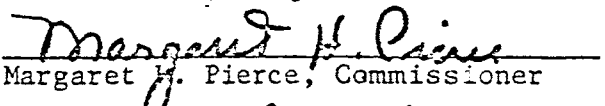
be disbursed to Nicholas C. Dazzo and Sam Dazzo of Albuquerque, New Mexico the sum of \$603,065.70 as payment in full of the balance of the attorneys' fee owed for legal services rendered herein for The Pueblo de Acoma.

Dated at Washington, D. C., this 20th day of January 1971.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner