

BEFORE THE INDIAN CLAIMS COMMISSION

THE SKAGIT TRIBE OF INDIANS, also)	
known as THE LOWER SKAGIT TRIBE OF)	
INDIANS, also known as THE WHIDBEY)	
ISLAND SKAGITS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 294
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER GRANTING ATTORNEYS' REIMBURSABLE EXPENSES

UPON CONSIDERATION of the petition, filed November 26, 1971, by Frederick W. Post, Attorney of Record for the plaintiff herein, for reimbursement of the expenses incurred by him and other contract attorney in the prosecution of the above cited case, the supporting affidavits and documentary evidence filed herein, the provisions of the contracts of employment respecting the payment and reimbursement of expenses, and the remainder of the record herein, the Commission finds as follows:

1. The attorney of record, Frederick W. Post, on November 26, 1971, filed a petition on behalf of himself and Warren J. Gilbert, deceased, for allowance of attorneys' fees and reimbursement of expenses as were individually incurred by each of the contract attorneys.

The allowance of attorneys' fees was considered by the Commission and the amount prayed for approved in the Commission's Order of February 16, 1972 (27 Ind. Cl. Comm. 46). The findings of that order, to the extent pertinent, are hereby incorporated by reference as if set out in full herein.

2. The contract in force between the plaintiff and its attorneys at the time of the judgment herein, provided, in reference to expenses, the following:

"[T]he Attorneys may employ such technical or stenographic assistance considered necessary to fulfill their obligations under this contract."

and, further,

"The attorneys shall also be allowed and be reimbursed from any amount of the judgment received by the Tribe, such actual expenses incurred by the Attorneys that are allowed

by the Indian Claims Commission in accordance with Section 15 of the Act of August 13, 1946, Public Law 726. . . ."

In addition, said contracts provided for the creation of funds by the tribe for direct payment to the attorneys of the expenses of litigation.

3. The defendant's response to the petition attached a copy of a letter from the Acting Associate Solicitor, Division of Indian Affairs, dated December 30, 1971, and of a memorandum from the Commissioner of Indian Affairs, dated December 22, 1971, which recited the following details relative to expenses:

"Services of court reporters	\$ 804.47
Preparation of exhibits	10.00
Printing and duplicating	185.11
Postage	3.50
Telephone	11.00
Travel	258.52
Services of experts	2,000.00
Certification of tribal claims attorney contracts	<u>18.00</u>
	\$3,290.60

The 1951 contract provided for the creation of a fund of \$500.00 to be used solely for expenses of litigation. The 1957 contract called for the tribe to provide \$750.00 for incidental expenses of litigation. We have no evidence or knowledge that the tribe provided those sums of money as set out in the 1951 and 1957 contracts, nor that the tribe ever paid any money to the claims attorneys for expenses of litigation of the tribe's claims.

The item of \$18.00 for certification of the attorneys' claims contracts with the tribe appears to have been for the personal benefit of the attorneys and is believed not to be an expense proper for reimbursement."

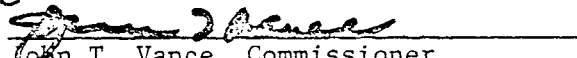
4. By affidavit filed February 29, 1972, the attorney of record amended the expense item incurred by Attorney Gilbert for court reporting from \$400.00 to \$244.00, decreasing the total amount claimed for Attorney Gilbert from \$911.84 to \$755.84, and his own itemized expenses and unliquidated obligations from \$2,378.76 to \$2,355.74, reducing the total amount claimed from \$3,290.60 to \$3,111.58.

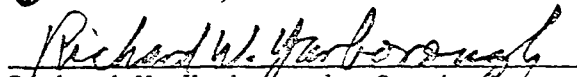
5. Except as hereinafter noted, the expenses claimed are considered to be reasonable, to have incurred in the prosecution of the claim herein and that the attorneys have not been otherwise reimbursed. The expenditure of \$18.00 for certification of the employment agreement is considered to have been for the benefit of the attorneys and the payment of this sum is disallowed. The balance of the amount claimed, the sum of \$3,093.58, is approved, payable in the sum of \$2,355.74 to Frederick W. Post, Esquire, and in the sum of \$737.84 to Catherine M. Gilbert, Executrix of the Estate of Warren J. Gilbert, deceased.

IT IS THEREFORE ORDERED that out of the sum to be appropriated to pay the judgment herein of the Lower Skagit Tribe of Indians, there shall be disbursed jointly to Frederick W. Post and Catherine M. Gilbert, Executrix of the Estate of Warren J. Gilbert, deceased, the sum of \$3,093.58, as payment in full of all claims for reimbursable expenses incurred in the prosecution of the claim of the Lower Skagit Tribe of Indians before this Commission in Docket No. 294.

Dated at Washington, D. C., this 8th day of March 1972.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner