

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

RUTH K. DOWELL, Individually and)
as Executrix of the Estate of)
H. B. Dowell, Deceased,)
)
Plaintiff,)
)
-vs-)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

CIVIL ACTION NO. 74-C-247

JUDGMENT

JUDGMENT

FILED

SEP 10 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

This action came on for trial before the Court, Honorable
Allen E. Barrow, Chief Judge of the United States District Court
for the Northern District of Oklahoma, presiding, and the evidence
adduced by the parties having been heard and the Court having made
its findings of fact and conclusions of law, it is hereby,

ORDERED AND ADJUDGED that the Plaintiff, Ruth K. Dowell,
individually and as Executrix of the Estate of H. B. Dowell,
deceased, recover from the Defendant, United States of America,
the sum of \$3,648.03 with interest thereon as provided by law, and
her costs.

Entered this 10th day of September, 1975.

Allen E. Barrow

Chief Judge of the United States
District Court for the Northern
District of Oklahoma

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as Executrix of the Estate of)
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Plaintiff,)
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-vs-)
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UNITED STATES OF AMERICA,)
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CIVIL ACTION NO. 74-C-247

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case came on for trial before the Court on the 19th day of August, 1975, jury having been waived by both parties. Based upon the pleadings, testimony, stipulations, admissions, depositions, exhibits and after a complete review of the transcript of the testimony and the briefs of the parties, the Court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

The Court has divided its Findings of Fact into three areas representing evidence related to Mrs. Dowell's position; the practices and policies of University Village, Inc.; and the Government's contentions. Although some of the findings may appear to be repetitious, they are in fact necessary to explain the Court's view of each of the three areas, and how the case was presented in open court.

I.

1. This is an income tax refund suit brought by the Plaintiff, Ruth K. Dowell, individually and as executrix of the estate of H. B. Dowell, deceased, against the Defendant, United States of America, wherein Plaintiff seeks the recovery of \$3,658.03 constituting taxes and interest which were allegedly illegally and erroneously assessed and collected from the Plaintiff, and continuing interest. (Stipulation of Facts)

2. The Plaintiff is an individual citizen of the United States and is the duly appointed executrix of the estate of her deceased husband, H. B. Dowell. (Stipulation of Facts)

3. Ruth K. Dowell and H. B. Dowell, husband and wife, timely filed a joint individual Federal income tax return for the calendar year 1971 with the Director of the Southwest Service Center, Internal

Revenue Service, which income tax return disclosed a total tax liability in the amount of \$1,344.00. This tax liability was fully paid during the year 1971 by estimated tax payments. (Stipulation of Facts)

4. The Internal Revenue Service examined Plaintiff's income tax return for the calendar year 1971 and determined a deficiency in the amount of \$3,337.76. This deficiency was based on the denial of the charitable deduction made by Mrs. Dowell to Oral Roberts Evangelistic Association. (Stipulation of Facts; Plaintiff's Exhibits 9, 11)

5. This deficiency was timely assessed by the Defendant on February 11, 1971, and Plaintiff subsequently paid this assessment of \$3,337.76 together with interest thereon in the amount of \$310.27 on November 2, 1973, and April 3, 1974. (Stipulation of Facts)

6. On December 12, 1973, Plaintiff timely filed with the District Director of the Internal Revenue Service in Oklahoma City, Oklahoma, a claim for refund of income tax for the calendar year 1971 in the amount of \$3,337.76, plus interest thereon. (Stipulation of Facts)

7. On April 3, 1974, the District Director of the Internal Revenue Service, Oklahoma City, Oklahoma, notified Plaintiff by letter (Form SWR-AUD-2196) that the claim for refund of income tax for the calendar year 1971 in the amount of \$3,337.76, plus interest thereon was disallowed. (Stipulation of Facts)

8. During the calendar year 1971, Oral Roberts Evangelistic Association, Inc. and University Village, Inc. were each organizations described in Section 170(c) of the Internal Revenue Code of 1954. (Stipulation of Facts)

9. Mrs. Dowell testified that during late 1970 and January of 1971, she was considering a move into some type of health care facility where Mr. Dowell, who was then ill, could receive the kind of care he needed. (Dowell - Tr. I-15, 70) She further testified that in January of 1971, she visited University Village, Inc. and at that time spoke with Mr. Dan P. White, a representative of University Village, Inc. about applying for admission to University Village, Inc. and the financial aspects of living at University Village, Inc.

(Dowell - Tr. I-17; White - Deposition 6, 7) On January 26, 1971, Mrs. Dowell made application for residency at University Village, Inc. (Plaintiff's Exhibit 3)

10. On February 11, 1971, Mrs. Dowell received a letter from Mr. Ronald R. Smith, accepting Mrs. Dowell as a resident of University Village, Inc. (Plaintiff's Exhibit 4)

11. On February 25, 1971, Mrs. Dowell gave a check in the amount of \$22,500.00 to Oral Roberts Evangelistic Association, which check was signed by her. (Plaintiff's Exhibit 5; Stipulation of Facts)

12. On March 2, 1971, Mrs. Dowell received a letter from Mr. Howard W. Dessinger thanking her for the charitable contribution which she made to Oral Roberts Evangelistic Association. (Plaintiff's Exhibit 6; Stipulation of Facts)

13. On March 26, 1971, Mrs. Dowell moved into Cottage 16D at University Village, Inc. (Dowell - Tr. I-15)

14. On April 2, 1971, Mrs. Dowell signed a copy of her residency agreement with University Village, Inc. (Plaintiff's Exhibit 7; Stipulation of Facts)

15. Mrs. Dowell did not promise to make the sponsorship gift, nor was the sponsorship gift made, in order to induce University Village, Inc. to admit her and her husband as residents. (Dowell - Tr. I-34)

16. Although Mrs. Dowell testified that the base monthly service charge which she paid for residency was \$168.00 per month (Dowell - Tr. I-93, 106), upon reviewing her residency agreement (Plaintiff's Exhibit 7) the Court finds that Mrs. Dowell paid a base residency fee of \$165.00 per month. Mrs. Dowell also paid additional amounts for the other services hereinafter mentioned. The Government did not contest the payment of these additional amounts. (Truelson - Tr. I-106) Mrs. Dowell further testified that she paid from \$400.00 to \$600.00 per month for Mr. Dowell's health care. (Dowell - Tr. I-110, 111, 112) Pursuant to the residency agreement, during 1971 and thereafter, Mrs. Dowell testified that she paid her monthly charge to University Village, Inc. for services not included in the base residency fee. (Dowell - Tr. I-93, 102, 105, 109; Smith - Tr. I-151, 152, 217, 218)

17. The testimony indicates that Mrs. Dowell did not expect that Mr. Dowell or she would receive free medical care at the health center in exchange for her sponsorship gift. (Dowell - Tr. I-110, 111, 112)

18. Mrs. Dowell did not expect to receive lifetime care from University Village, Inc. in exchange for her sponsorship gift and was unaware that such advantages were available or were covered even in the residency agreement. (Dowell - Tr. I-92, 93)

19. The Court finds that prior to residing at University Village, Inc., Mr. Dowell had resided temporarily in certain rest homes on a short term basis. (Dowell - Tr. I-47, 48)

20. The testimony reflects that Mrs. Dowell discussed the financial aspects of moving into University Village, Inc. with a representative of University Village, Inc., Mr. White. His deposition discloses he told her, as he told all applicants, that sponsorship gifts were solicited and that University Village, Inc. was made possible by gifts but that they were not a requirement for residency. Gifts, he stated, came from both residents and non-residents. Mr. White told Mrs. Dowell as he told all residents, the substance of that which was already printed in the brochure, "Tell Me, Mr. Smith...." (Plaintiff's Exhibit 1) The undisputed testimony of Mr. White and Mrs. Dowell demonstrates that he never told Mrs. Dowell either directly or indirectly that a sponsorship gift was required or was in any manner a prerequisite to residency or continuing residency at University Village, Inc. (Dowell - Tr. I-17, 18, 19, 20; White - Deposition 7, 8, 9, 13, 14, 20, 21, 22; Plaintiff's Exhibit 1)

21. According to the evidence Mrs. Dowell was never told by Mr. White nor by any other representative of University Village, Inc. nor anyone else that a sponsorship gift was required as a prerequisite to residency or continuing residency at University Village, Inc. (Dowell - Tr. I-19, 20; White - Deposition 21) She was never made aware of any alleged requirement whatsoever. (Dowell - Tr. I-19, 20, 39) Nor did she believe a sponsorship gift was required for residency. (Dowell - Tr. I-39, 43) Mrs. Dowell made her sponsorship

gift to University Village, Inc. out of charity and generosity knowing that her gift would help others. (Dowell - Tr. I-19, 43, 76, 78) Mrs. Dowell testified she did not expect to receive, nor did she anticipate receiving, any benefits from her gift. (Dowell - Tr. I-20, 21, 68)

22. The testimony of Mrs. Dowell clearly indicates her gift was not tax motivated or induced. She did not consider any form of tax savings in making the gift. (Dowell - Tr. I-66, 67, 68)

23. The sponsorship gift made by Mrs. Dowell was completely voluntary. (Dowell - Tr. I-20, 64)

24. Mrs. Dowell testified she considered her gift to be unconditional and did not expect that it would be returned. (Dowell - Tr. I-21)

25. By deposition Mr. White testified at the time of Mrs. Dowell's application, University Village, Inc. did not follow a policy, either directly or indirectly, of advising prospective applicants that a sponsorship gift was to be made to University Village, Inc. or one of Oral Roberts' affiliates. (White - Deposition 21, 22, 49, 55)

26. Mrs. Dowell testified and the evidence shows that no promises of lower rental costs, food costs, medical costs or any benefits or privileges were made to her to induce her to make a sponsorship gift. (Dowell - Tr. I-20, 21)

27. The evidence indicates that Mrs. Dowell and University Village, Inc. considered that her sponsorship gift was separate and apart from her residency at University Village, Inc. (Dowell - Tr. I-37; White - Deposition 25, 27)

28. The Court finds that Mrs. Dowell did not request that her sponsorship gift be applied in any particular manner. (Dowell - Tr. I-79)

29. The Court finds that Mrs. Dowell did not expect to receive a particular type of residence in exchange for her sponsorship gift. She expected to live in a cottage in exchange for her monthly residency payments. (Dowell - Tr. I-91, 103, 104, 108) And, those

monthly payments were made and continue to be made. (Dowell - Tr. I-21, 52, 110)

30. The testimony adduced demonstrates that residents at University Village, Inc. receive no property interest in their particular cottage or apartment or any other of the assets of University Village, Inc. in exchange for their sponsorship gifts. This was clearly understood by Mrs. Dowell. (Dowell - Tr. I-21; Smith - Tr. I-153, 154)

31. The Court finds that Mrs. Dowell did not expect to receive, nor did she receive, any substantial benefits in excess of those inuring to the general public in making sponsorship gifts to University Village, Inc. (Dowell - Tr. I-20) Although Mrs. Dowell realized some people had made gifts in the past, she was under no duress or pressure to do so. (Dowell - Tr. I-20, 64)

32. The evidence demonstrates that Mr. and Mrs. Dowell's pattern of giving to charities and churches was well-established. The Dowells were very generous people who consistently gave substantial amounts of money to churches, universities and colleges, and individuals in need of help. The Dowells made many gifts for which deductions were not claimed. They had made substantial donations to charities and churches in the past, and the donation to Oral Roberts Evangelistic Association was, in Mrs. Dowell's mind, no different from previous donations. (Dowell - Tr. I-22, 23, 25, 32, 33, 72, 73; Plaintiff's Exhibit 2)

II.

1. University Village, Inc., as well as Oral Roberts University are outgrowths of the ministry of Oral Roberts and his association. (Smith - Tr. I-118) The value of the entire Oral Roberts facilities, located in Tulsa, Oklahoma, represent over \$70,000,000 and have been made possible through public support. (Smith - Tr. I-127, 130) University Village, Inc. is a uniquely planned, designed and managed facility for the elderly. Mr. Smith testified that University Village, Inc. is not a rest home, but rather a place where the aging of our society can go to live life to its fullest. He continued his testimony by stating under questioning that University Village, Inc. attempts to meet the needs of the people, whatever their individual circumstances. (Smith - Tr. I-131, 207) To meet this goal, University Village, Inc. has five types of facilities to accommodate circumstances of residents extending from the bedridden to the totally independent. This allows a resident to be moved from one facility to another to best suit varying needs of the residents. (Smith - Tr. I-134)

2. The testimony reveals that the sponsorship gift method of raising funds is an outgrowth of the Oral Roberts ministry's method of raising money, or projects, as University Village, Inc. prefers to call them. (Smith - Tr. I-120) Essentially, it is a continuation of a long standing policy of breaking larger projects down into smaller projects with which individuals may identify. (Smith - Tr. I-123, 124, 199, 200, 201) Mr. Smith's unrefuted testimony demonstrates that the suggested sponsorship gifts and brochures of University Village, Inc. are consistent with the sponsorship gifts and brochures that Oral Roberts has used for years in all of his institutions. (Smith - Tr. I-124, 125)

3. The uncontradicted testimony demonstrates that suggested sponsorship gifts are listed following the project concept of raising money. University Village, Inc. tries to make suggested sponsorship gifts on the basis of the cost of square footage of apartment spaces

in a manner comparable to raising money for residency halls at Oral Roberts University. (Smith - Tr. I-147, 148) The purpose is to provide an identity of gifts to particular spaces. Mr. Smith testified that this is consistent with Oral Roberts' fund raising philosophy because people want to be able to see what their money has done. (Smith - Tr. I-148)

4. In considering applicants, University Village, Inc. considers their social adaptability, medical history, and ability to meet their monthly payments. (Smith - Tr. I-140) It does not discriminate on the basis of race, color or creed. (Smith - Tr. I-141)

5. As a part of the applications, University Village, Inc. requests financial information. This is apparently used to provide University Village, Inc. with some indication of the applicant's continuing ability to pay his monthly residency charges (Smith - Tr. I-208) and also, according to Mr. Smith, to enable University Village, Inc. to understand the applicant's problems, and protect him from the prey of those who would take advantage of him. (Smith - Tr. I-141)

Based upon the unrefuted testimony, although it is quite clear that someone must pay the bills, University Village, Inc. has never turned away an applicant solely because of his inability to pay monthly service charges. (White - Deposition 36, 37; Smith - Tr. I-144) On occasion, University Village, Inc. has accepted those who could not pay their monthly bills. (Smith - Tr. I-208)

6. When applications are considered the admissions committee is not made aware of whether or not a sponsorship gift has been made or will be made. (Smith - Tr. I-145) That question is not investigated by those responsible for admissions or otherwise made known to them. (Smith - Tr. I-145, 146)

7. In Mrs. Dowell's case, Mr. Smith, who was then, and is now, in charge of admissions did not know if the Dowells had made a sponsorship gift at the time her application was accepted. Mr. Smith further testified that he did not follow up to see if it was made

after residency. (Smith - Tr. I-146)

8. The Court finds that it is against the policy of University Village, Inc. to tell a resident that a sponsorship gift is required for residency at University Village, Inc. That policy is not only in writing but the statement is made verbally to every person who becomes a resident. (Smith - Tr. I-146)

9. The Court finds that sponsorship gifts were not made in lieu of rental payments. The residency agreement includes a charge which is equivalent to a rental payment or residency charge in substance, although University Village, Inc. does not desire that it be designated as such because it connotes a temporary rather than a permanent home. University Village, Inc. calls this a monthly service charge and it includes residency at University Village, Inc. (Smith - Tr. I-151, 152, 217, 218)

10. Monthly rental payments are not reduced or modified for a gift that is made. (Smith - Tr. I-152). Additionally, monthly service charges do not vary with the size of the gift; there is no relationship between monthly service charges and sponsorship gifts. (Smith - Tr. I-152) Further, evidence reveals that people who make no gift or smaller gifts do not pay more in service charges than those who pay the suggested sponsorship gift. (Smith - Tr. I-152) In Mrs. Dowell's case, the sponsorship gift was not charged against or applied to reduce her costs for residency or services rendered. (Smith - Tr. I-152)

11. The Court finds various residents make varying gifts which do not necessarily have a corresponding relationship to the units in which they live. Some people make gifts larger than the suggested amounts, some people make gifts smaller than the suggested amounts. Some people make no gifts at all. (Smith - Tr. I-145; Taulbert - Tr. II-178; Plaintiff's Exhibits 16, 20)

12. Unrefuted evidence supports the factual finding that sponsorship gifts are not a requirement for admission to University Village, Inc. now, nor were they when Mrs. Dowell applied. Further,

according to the evidence, sponsorship gifts have never been a requirement for admission to University Village, Inc. (White - Deposition 21; Smith - Tr. I-150)

13. The Court finds that Mrs. Dowell's acceptance to University Village, Inc. was not contingent upon her making a sponsorship gift. (White - Deposition 25; Smith - Tr. I-151)

14. The Court finds that Mrs. Dowell received no preferred treatment because of her sponsorship gift. (Smith - Tr. I-151)

15. The Court finds that every resident receives the same treatment regardless of whether or not they make a sponsorship gift. (Smith - Tr. I-151)

16. University Village, Inc. does not consider Mrs. Dowell's sponsorship gift a payment in exchange for residency or services rendered or any right or privilege. Neither is it an exchange for the execution of the residency agreement. (Smith - Tr. I-152, 153)

17. The Court finds that residency agreements are given to all of the residents at University Village, Inc. However, some of them sign the agreement and some do not. (Smith - Tr. I-153) There is no relationship between gifts and whether the agreements are signed. (Smith - Tr. I-153)

18. The evidence reveals no policy at University Village, Inc. either formal or informal which requires residents to make sponsorship gifts. (Smith - Tr. I-155) Also, further evidence reveals that there is not a general understanding that sponsorship gifts are required. (Taulbert - Tr. II-198, 200)

19. University Village, Inc. on occasion requires life expectancy information from applicants or residents. The purpose of this information, according to the evidence, is to assist in the development of a waiting list meant for planning purposes of University Village, Inc. Also, the American Association of Homes for the Aging compiles statistics which are useful in the management of homes for the aged; University Village, Inc. is a member of that

Association and, therefore, supplies such life expectancy information to that Association. (Smith - Tr. I-156)

20. The Articles of Incorporation and the By-Laws of University Village, Inc. make no requirement that sponsorship gifts be made in order to secure admittance or to remain in University Village, Inc. as a resident. (Smith - Tr. I-154; Plaintiff's Exhibit 31)

21. The Court finds that the brochures distributed by University Village, Inc. to prospective applicants do not indicate that any gift is required. (Plaintiff's Exhibits 1, 15)

22. The Court finds that Mrs. Dowell and other applicants are not advised that apartments and cottages are available only in accordance with particular sponsorship gifts. (White - Deposition 25)

23. The Court finds that sponsorship gifts were on occasion returned to persons who had made them in conformity with the continuing policy of Oral Roberts and all of his associations that each individual's needs and requests be considered on its individual merits. (Smith - Tr. I-155, 156; II-16, 162, 163)

24. The Court finds University Village, Inc. at one time used pledge forms. Those pledge forms, according to the evidence, were made available as they were generally requested by the particular individuals so that the individuals would have some evidence of their pledge. Neither University Village, Inc. nor any of Oral Roberts' affiliates have ever enforced the pledge or considered it a legally binding obligation. (Smith - Tr. I-149, 150)

25. The Court finds the Plaintiff herein introduced various summary charts which show a wide variety of information relating to the gift pattern, or non-pattern as the case may be, at University Village, Inc. This information was prepared in apparent rebuttal to the Government's contentions that University Village, Inc. engaged in a scheme whereby the residents made sponsorship payments in consideration of or in expectation of occupancy and life time care at University Village, Inc. In this

regard the Government has failed to contest or impeach the data contained in certain of Plaintiff's exhibits and therefore the Court finds that data to be fact. (Plaintiff's Exhibits 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26) Based on said exhibits the Court finds:

(a) That of the residents of University Village, Inc., 13, or 2.5%, have made partial gifts. (Plaintiff's Exhibits 16, 20)

(b) That of the residents of University Village, Inc., 46, or 8.98%, have made no gift. (Plaintiff's Exhibits 16, 20) The Court finds that of those 46 who made no sponsorship gift, 38 have agreements in their file while 8 do not. (Plaintiff's Exhibits 17, 20) The Court finds that of the residents of University Village, Inc., 54, or 10.54%, have no residency agreement in their files. (Plaintiff's Exhibits 16, 20) The Court finds that 56.4% of the residents made gifts after acceptance while only 7.8% made gifts prior to acceptance. (Plaintiff's Exhibit 16)

(c) That 3.1% of the residents of University Village, Inc. gave more than the suggested gift amount and 12.3% of the residents gave less than the suggested amount. (Plaintiff's Exhibit 16) The Court finds 16 of the residents gave more than the suggested sponsorship amount while 63 gave less than the suggested sponsorship amount. (Plaintiff's Exhibit 17)

(d) That 24.38% of the residents of University Village, Inc. either made no gifts, made gifts of more than the suggested sponsorship amount, or gifts of less than the suggested sponsorship amount. (Plaintiff's Exhibit 16) Thus, nearly 1/4th of all

the residents of University Village, Inc. did not give the suggested sponsorship amount. (Plaintiff's Exhibit 16) The Court finds that prior to residency, the residents of University Village, Inc. have given \$162,405 and after residency the residents at University Village, Inc. have given \$749,331 in deferred gifts. (Plaintiff's Exhibits 22 and 23) The Court finds that residents of University Village, Inc. have given gifts in the amount of \$139,891.50 prior to acceptance and have given \$4,182,820.15 after acceptance. (Plaintiff's Exhibits 24, 25)

(e) That sponsorship gifts by residents of University Village, Inc. have been made in the amount of \$4,322,711.65 and sponsorship gifts have been made by non-residents to University Village, Inc. in the amount of \$521,892.

(f) That University Village, Inc. widely disseminated information regarding sponsorship gifts and the fact that they are not required. To that extent more than 58,400 brochures were in print. (Plaintiff's Exhibit 19)

III

1. The Court finds that the Government contended in its opening statement that University Village, Inc. has a scheme and policy which is a "tax dodge". (Truelson - Tr. I-11) In apparent rebuttal to the Government's position, and in support of her prima facia case, the Plaintiff prepared various exhibits. One such exhibit (Plaintiff's Exhibit 20) included the fact that 46 people out of all of those residents, through March of 1975, either present, deceased, or moved out, made no sponsorship gift to University Village, Inc. The total of those residents would be 512 (Plaintiff's Exhibit 16) less the 57 who were accepted but had not yet moved in (Smith - Tr. II-151, 149, 150; Plaintiff's Exhibit 17) which is 455. Thus, of 455 residents, Plaintiff's Exhibit demonstrated that 46 or more than 10% of those made no sponsorship gift.

The entire record demonstrates that the Government attempted to refute, or impeach the correctness of that number in order to establish its contention that a scheme or policy had been established and to refute Mrs. Dowell's prima facia case. Counsel for the Defendant stated to the Court that he was going to show the number of 46 was inaccurate and that the Defendant would impeach that number. (Guild - Tr. II-25) In addition, the Government contended in court that they found many errors in that figure. (Guild - Tr. II-61) Specifically, counsel for the Defendant stated to the Court that the Defendant would show that of the 46 which Plaintiff's Exhibit 20 listed as having made no gifts, 31 have made sponsorship gifts. (Guild - Tr. II-90, 91) Counsel further stated that he would explain what happened to another 12 of the 46 who actually made no sponsorship gift. (Guild - Tr. II-91) Presumably, establishing such facts would prove the Government's contention as to the existence of a scheme or policy and rebut Mrs. Dowell's prima facia case.

In attempting to impeach Plaintiff's Exhibit 20, and demonstrate that the number of 46 was completely erroneous, the Defendant vigorously cross examined Mr. Smith with respect to the validity and accuracy of that number. Indeed, in reviewing the transcript, the

Defendant's cross examination, recross examination and voir dire relating to the number 46 contained in Plaintiff's Exhibit 20 covers approximately 127 pages of the transcript.

The Government's attempt at impeaching the number of 46 was brought to an end with counsel for the Defendant withdrawing Defendant's Exhibit 20, which counsel for the Government was utilizing in his attempted impeachment. Apparently the Defendant's exhibit was withdrawn because Defendant's Exhibit 20 was inaccurate, rather than Plaintiff's Exhibit 20. (Guild - Tr. II-135)

In lieu of further detailed and extended cross examination on the number of 46, the parties entered into a stipulation which more completely explains the number. (Plaintiff's Exhibit 32 and Defendants Exhibit 20) That Stipulation of Facts, when considered along with the Defendant's cross examination of Mr. Smith, and his testimony on redirect examination with regard to the number of 46 does not demonstrate that Plaintiff's Exhibit 20 is inaccurate. Clearly, the Defendant did not demonstrate, as it indicated it would, that 31 of the 46 in fact made sponsorship gifts. Nor did it "explain" the 12 names about which counsel for the Defendant indicated an explanation would be forthcoming.

The Stipulation of Facts and testimony surrounding such stipulation indicates that relatives of 15 of the residents made sponsorship gifts. Mr. Smith, of course, had pointed this out in testimony from time to time and Plaintiff never contended otherwise, so this is not particularly revealing. The stipulation and testimony of Mr. Smith fully explained the misleading entries contained in the sponsorship ledger which Defendant had utilized in the attempted impeachment of the 46 figure. (Smith - Tr. II-160) Some question was raised (Smith - Tr. II-139) about one of the 46 not being a resident but this also was satisfactorily explained.

From the stipulation and the testimony, it is clear that deferred gifts are not sponsorship gifts, nor their equivalent. (Smith - Tr. II-159, 160)

The Stipulation of Facts and testimony relating thereto indicates that the parties place different interpretations on different concepts and words. However, the crux of the issue to which the stipulation and testimony was directed is clear. The government attempted to show that 31 of the 46 made a sponsorship gift and 12 others would be explained leaving only 3 persons who made no gift. Quite simply, the Defendant failed in its efforts. In addition to withdrawing its inaccurate exhibit (Defendant's Exhibit 20), the facts elicited through cross examination of Mr. Smith, the stipulation of the parties, and the testimony of Mr. Smith demonstrate that the 46 figure is an accurate reflection of what Plaintiff represents. That is, 46 of the 455 present residents, deceased residents and residents which moved out made no sponsorship gift. Plaintiff's Exhibit 20 was accurate.

While it is clear that of the 46, 15 had gifts made by relatives, and 11 made deferred gifts, the Court does not find this impeaches the veracity of the 46 figure. Plaintiff never contended that on some occasions relatives of residents did not make sponsorship gifts; this was explained. Deferred gifts, such as life loans and annuities, are not sponsorship gifts nor their equivalent, and there is no assurance that University Village, Inc. will in the future receive these gift amounts according to the evidence. In any event, regardless of conflicting interpretations and theories proposed by the parties, the totality of the evidence leaves 21 of the 46 which made no sponsorship gift to University Village, Inc., made no deferred gift, and with respect to which no relatives made gifts. Thus, a substantial number of people were admitted to University Village, Inc. without making a sponsorship gift, a deferred gift or having gifts made by relatives.

Considering the Government's failure, to meet its representation to the Court, that is, that 31 of the 46 did make sponsorship gifts and that explanations existed for 12 others and considering the extensive testimony and cross examination of the witnesses representing University Village, Inc. and the

Stipulation of Facts, the Court finds that Plaintiff's Exhibit 20 is an accurate and illuminating exhibit. While the various explanations of the 46 figure are helpful to the Court, the Court is compelled to find that 46 out of 455 present, deceased and moved out residents made no sponsorship gift to University Village, Inc.

2. The Court finds that Oklahoma Natural Gas Company has a history of giving to Oral Roberts University and other charitable institutions and colleges in the State of Oklahoma. The amount of payments made by Oklahoma Natural Gas Company have been substantially the same throughout the decade. The evidence does not establish that Oklahoma Natural Gas Company agreed to increase its pledge to Oral Roberts University and University Village, Inc. if Mrs. Winnie Ingram was allowed to move into University Village, Inc. without making a sponsorship gift, as the Government insinuated. There is no clear evidence of any direct relationship between Mrs. Ingram's admittance to University Village, Inc. and the gifts to Oral Roberts University. (Plaintiff's Exhibit 29, Plaintiff's Exhibit 27 and Defendant's Exhibit 24)

3. The Court finds that the Defendant contends that, in addition to Mrs. Ingram, the admittance of Clara Calnin without a sponsorship gift was also under unusual circumstances. In its brief, the government indicates a letter from relatives of Clara Calnin induced University Village, Inc. to admit her without a sponsorship gift. (Plaintiff's Exhibit 27 and Defendant's Exhibit 24) However, the notations by Mr. Rod Donica (Defendant's witness who was a former Internal Revenue Service agent), which were at first withheld from the Court, indicate that he was satisfied that the allegations in that letter were refuted. (Plaintiff's Exhibit 27 and Defendant's Exhibit 24)

4. The Court has considered the statement by Mr. Donica that in his opinion a sponsorship gift at University Village, Inc.

was required. (Donica - Tr. II-244) In this regard, the Court has also considered the fact that Mr. Donica stated that he had conversations with Mr. Taulbert and could in fact remember what Mr. Taulbert told him with respect to the sponsorship gifts and that people were just expected to make the gifts. (Donica - Tr. II-245, 246, 247, 248) Further, on cross examination counsel for the Plaintiff read from Mr. Donica's deposition taken on April 14, 1975, wherein Mr. Donica stated at that time he had no present recollection of details of conversations with Mr. Smith or Mr. Taulbert. (Donica - Tr. II-253)

Also, in considering Mr. Donica's statement and opinion the Court has considered the testimony of Mr. Taulbert who was called by the Defendant as an adverse witness. In his testimony Mr. Taulbert stated that he does not recall telling Mr. Donica that there was a general understanding as to whether or not payments by residents at the University Village, Inc. were required (Taulbert - Tr. II-199) and he further states twice under cross examination by the Defendant that to his knowledge there is no "general understanding" nor is it "generally understood" by residents that a sponsorship gift must be paid. (Taulbert - Tr. II-198, 200) Indeed, Mr. Taulbert stated again under cross examination by the Defendant that some people make no gift at all. With respect to Mr. Donica's opinion, statement and testimony, the Court has also considered that the report of Mr. Donica, part of which was submitted by both Plaintiff and Defendant as an exhibit in this case is at best sporadic and incomplete. Mr. Donica, on cross examination, demonstrated no present recollection of whether or not files as submitted in the exhibit were complete or incomplete or whether they were in the same condition as when he submitted them to the Internal Revenue Service upon his leaving its employ. In considering Mr. Donica's statement, opinion, and testimony the Court was required to read and consider as cross examination by the Plaintiff the deposition of Mr.

Donica taken on behalf of the Plaintiff on April 14, 1975, with the exception of the lines deleted in accordance with the agreement of counsel. Examination of that deposition indicates that Mr. Donica generally selected bits and pieces of voluminous files which best supported the position of the Government in the present case, although said examination was obviously before the institution of the present case. Mr. Donica, by his own testimony, stated that he took sketchy notes and he did not include everything from the file. (Donica - Deposition 25) He further stated that he had no recollection of the notes taken in the investigation.

(Donica - Deposition 25, 26) Further, the deposition indicates that Mr. Donica does not remember the context in which the statements were made which he quoted from various files at University Village, Inc. nor does he remember whether the notes he took and documents he compiled were complete or whether they were altered. In spite of Mr. Donica's testimony at the trial and his deposition submitted in lieu of cross examination at the trial in accordance with the agreement of counsel, the parts of Mr. Donica's report which were submitted by the Plaintiff and the Defendant as an exhibit were given due consideration by the Court. And the Court finds that the parts of Mr. Donica's report contained in that exhibit are entitled to some weight. However, such evidence is circumstantial evidence at best; is ambiguous and is open to rebuttal. Therefore, the Court finds in the face of the testimony of Mrs. Dowell, Mr. Smith and the exhibits of the Plaintiff, Mr. Donica's opinion and his report clearly do not allow this Court to find the existence of a scheme or policy which requires the payment of sponsorship gifts or to find for the Defendant under any other theory. The Court has attempted in considering Mr. Donica's opinion and his report, upon which the Government appears to have based nearly its entire case, to place the greatest possible weight on evidence which has been to some extent impeached and to a very great extent completely overcome by contrary

evidence. The Court feels compelled to note that even if Mr. Donica's report and opinion, and testimony were given full weight, it is not sufficient to allow a finding in support of the Government's contention that a scheme, policy, or understanding existed.

5. After both parties had rested and closing argument had been waived, Mr. Truelson, counsel for the Government, sought to make a statement for the record concerning a witness who neither appeared nor was subpoenaed by the Government. Thereupon the Court, upon inquiring, determined that the Government desired to reopen the case, the Court allowed such reopening and the Government's offer of proof, which was countered by an offer of proof by the plaintiff. The Court finds that the offer of proof by the Defendant and counter-offer of proof by the Plaintiff were out of order.

(Truelson, Kincaid - Tr. II-263, 264, 265, 266, 267, 268) However, the Court has nevertheless, in attempting to be fair to all parties, and in order to allow admission of evidence to support each parties' theory, considered both the offer and the counter-offer and finds that even if the proffered testimony were admitted and taken as true, it would not establish a scheme, policy or understanding as contended by the Government nor would it refute Mrs. Dowell's prima facie case.

CONCLUSIONS OF LAW

The parties hereto, from the beginning of this proceeding, have argued that differing theories of law are applicable to the instant case. The Plaintiff has consistently advocated that the line of authority to be followed herein is represented by Wardwell v. Commissioner, 301 F.2d 632 (8th Cir. 1962), rev'g. 35 T.C. 443; and Sedam v. United States, 75-2 U.S.T.C. ¶9562 (7th Cir. 1975), rev'g. 74-1 U.S.T.C. ¶9442 (S.D. Ind. 1974). However, Plaintiff has also argued that even under the line of authority asserted by the Defendant, Plaintiff is entitled to a judgment in her favor. The Defendant on the other hand has argued that the line of authority represented by Singer v. United States, 449 F.2d 413 (Ct. Cl. 1971); Winters v. Commissioner, 468 F.2d 778 (2nd Cir. 1972); Stubbs v. United States, 428 F.2d 885 (9th Cir. 1970); United States v. Transamerica Corp., 392 F.2d 522 (9th Cir. 1968); Grinslade v. Commissioner, 59 T.C. 566 (1973); and Perlmutter v. Commissioner, 45 T. C. 311 (1965) is controlling.

The Court in addition to its own research and analysis has carefully considered and reviewed both lines of authority cited in the respective Briefs of Plaintiff and Defendant, along with the arguments urged therein. The Court is of the opinion and belief that it is unnecessary to enter that controversy in the instant case. Indeed the Court is not prepared to accept either Plaintiff's or Defendant's positions and authorities as being mutually exclusive or totally inconsistent. It is clear to the Court that the facts presented to the Court do not require a ruling as to which, either, or both lines of authority control.

However, a close reading of the authorities and argument of counsel presented to the Court by the Plaintiff and Defendant requires in any event, the following:

- (a) The Court concludes that under the case authority cited by Plaintiff in support of her

position, the totality of the evidence in the instant case compels a conclusion that the sponsorship gift of Mrs. Dowell was a charitable contribution under §170 of the Internal Revenue Code of 1954; and

(b) In addition thereto, the Court concludes that under the case authority cited by the Defendant in support of its position, the sponsorship gift of Mrs. Dowell was not made in consideration for lifetime housing, care, or any other benefits from University Village, Inc. and was a charitable contribution under §170 of the Internal Revenue Code of 1954.

Certainly the facts presented in the present case are not entirely consistent with any case which has been brought to this Court's attention nor any other case which the Court has encountered in its own research.

In making these findings and conclusions, the Court notes that the Court does not believe, but does not unnecessarily so rule, that a dual finding under both lines of authority is compelled under all circumstances. Surely fact situations will arise where the courts will have to decide which line of authority is controlling, or whether, as this Court has indicated it believes, without so deciding, that the lines of authority are not independent of one another. Those cases however will not involve the same facts as contained herein. The evidence presented in this case compels the Court to enter judgment for the Plaintiff under both lines of authority. Had only the line of authority urged by Plaintiff existed, the Court's conclusion would remain the same. Likewise, with respect to Defendant's asserted line of authority.

The crucial conclusion reached by this Court is that under any theory of law of which this Court is aware, including any tests relating to "detached and disinterested generosity", the facts

and circumstances surrounding the making of sponsorship gifts to University Village, Inc. clearly overcome the determination of the Commissioner. The Defendant's evidence was insufficient and most of its contentions were left unsupported at the conclusion of the trial.

In reaching this decision, the Court determined at the time it became apparent that the parties were proceeding under different lines of authority, that the most judicious procedure to follow herein would be to permit both parties to make a full and complete record to support their respective arguments. Following such a procedure would protect the interests of both parties from an early judicial determination with respect to which theory of law is applicable.

The Court, therefore, in its Order dated March 12, 1975, specifically states:

"Nonetheless, the Court has the authority under Rule 43 of the Federal Rules of Civil Procedure [now Rule 103 of the Federal Rules of Evidence] to allow a record to be made and report the evidence in full. The Court believes that is an appropriate procedure to be followed in this case, and that both parties should be allowed to make their record without prejudice to their theories of applicable law."

Therein, the Court further stated:

"The foregoing orders should not indicate any changes in the Court's position in regard to admissibility of evidence. Although the matter will be ultimately resolved at trial, it is currently contemplated that both parties, over objection, may make their record as contemplated by Rule 43 [now Rule 103]."

This was the procedure followed during the trial, and this Court was abundantly lenient and patient in permitting both parties to make their record. The Court was extremely indulgent with the parties in order to insure that all of the evidence was allowed admitted which, under any possible theory of law, was relevant to the final determination of this action. In accordance therewith, the Court has considered all of the evidence presented herein and the Court renders the conclusions herein on that basis.

In addition to the foregoing, the Court concludes:

1. The Court has jurisdiction of the subject matter and parties to this action. (Complaint of Plaintiff and Answer of Defendant)

2. Mrs. Dowell's intention was not to make a payment in consideration of or in exchange for housing, lifetime care, or other benefits but was made out of charity and generosity with the purpose of supporting a worthwhile charitable organization.

3. The "true nature" of Mrs. Dowell's sponsorship gift, considering all the surrounding facts and circumstances, and the "true nature" of the sponsorship gifts made by other residents at University Village is that of a charitable contribution under §170 of the Internal Revenue Code of 1954.

4. The \$22,500 check to Oral Roberts Evangelistic Association was not made in consideration for lifetime housing, care or other benefits from University Village, Inc.

5. Sponsorship gifts were not made in lieu of any other payments, either by Mrs. Dowell or by other residents.

6. Mrs. Dowell and other residents of University Village, Inc. are not obligated either legally or morally to make a sponsorship gift at any time, either prior to acceptance, after acceptance, prior to residency or after residency.

7. Although gifts are requested by University Village, Inc., such gifts are not determinative of the unit received or of residency.

8. Although University Village, Inc. attempts to raise money through gifts and accordingly, the majority of residents do make gifts. Not all residents make gifts, nor are any residents required or expected to make a sponsorship gift in consideration for economic benefits.

9. Applicants and residents at University Village, Inc. made their sponsorship gifts in various amounts, sometimes prior to residency, sometimes after residency, sometimes prior to acceptance, sometimes after acceptance; and some residents never make gifts.

The sponsorship gifts are not and were not payments for or in expectation of substantial economic benefits. No quid pro quo was involved.

10. The evidence presented herein does not support the contention of the Government that University Village, Inc. operated, or continues to operate, a scheme under which applicants and residents were required to make sponsorship gifts.

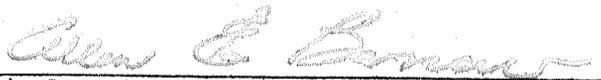
11. The Court concludes, based on the evidence, it was not, and is not, the policy of University Village, Inc. to require that sponsorship gifts be made by residents either as a condition precedent or subsequent to residency.

12. Mrs. Dowell and other residents receive no substantial or commensurate economic benefit in exchange for their sponsorship gifts.

13. Only by ignoring the testimony, documentation and the exhibits presented herein, could the Court under any theory of law (and the Court has closely studied the Briefs submitted herein and has engaged in further independent research) find that a quid pro quo was involved in Mrs. Dowell's or any other sponsorship gift, or that Mrs. Dowell's or any other sponsorship gift, was in exchange for substantial economic benefits.

14. The \$22,500 check to Oral Roberts Evangelistic Association was a deductible charitable contribution under §170 of the Internal Revenue Code of 1954.

15. Plaintiff is entitled to judgment against the United States of America in the amount of \$3,648.03 together with interest as provided by law.


Chief United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ELSIE BEAU and EMMA CARPENTER,)
)
 Plaintiffs,)
)
 vs.)
)
 ANNA M. DORRELL and SHERRELL)
 ANN DORRELL,)
)
 Defendants.)

No. 74-C-396

FILED
SEP 9 1975
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT MEMORANDUM

Plaintiffs, Elsie Beau and Emma Carpenter, instituted the above-styled action to declare certain Warranty Deeds to two eighty-acre tracts of land situated in Creek County, Oklahoma, null and void alleging the deeds to be forgeries. The Plaintiffs further ask that their title to the disputed property be quieted as against the claims of Anna M. Dorrell and Sherrell Ann Dorrell, Defendants herein.

The property, known as the Conaway Tract and the Killgore Tract, was acquired by Roy Dorrell and Nora Dorrell, husband and wife, by virtue of two Warranty Deeds. Roy Dorrell died on February 13, 1974. Thereafter, Nora Dorrell, as a surviving spouse and surviving joint tenant filed an action in the District Court of Creek County, Oklahoma, in an attempt to clear title to the two tracts involved in this action, and to have her declared to be the surviving joint tenant entitled to full ownership thereof. Thereafter, on March 1, 1974, two Warranty Deeds, covering the Conaway and Killgore tracts, were filed for record in the Office of the County Clerk of Creek County, Oklahoma. Both deeds, dated April 4, 1969, purported to be executed by Roy Dorrell and Nora Dorrell in favor of their son, Virgil Dorrell. Upon the filing of those deeds, Anna Dorrell, Virgil Dorrell's wife, and Sherrell Dorrell, Virgil Dorrell's daughter, intervened in the action in Creek County, asserting that they

were the owners of the two tracts in controversy by virtue of a third deed dated October 31, 1973, executed by Virgil Dorrell to Anna Dorrell and Sherrell Ann Dorrell as joint tenants. This third deed had been recorded November 6, 1973, a few days prior to Virgil's death.

The cause of action in Creek County was subsequently dismissed without prejudice and the question of the validity of the disputed deeds was refiled in this Court.

The central issue in this case concerns the validity of the "Killgore" and "Conaway" Warranty Deeds, dated April 4, 1969, purportedly conveying the tracts from Roy and Nora Dorrell to their son Virgil. Based upon all the evidence submitted in the case and a thorough examination of the briefs and exhibits, it is the determination of the Court that the signatures on said deeds are forgeries and the deeds therefore must be invalidated.

The Court recognizes that the burden of proof is on the Plaintiffs in this action. Furthermore, as noted in Gawf v. Gawf, 240 P.2d 1095 (Okla. 1952):

"Where a deed of conveyance is regular on its face, and bears the signature of the grantors and the regular certificate of acknowledgment signed and sealed by a notary public of this state, it imports verity, and impeachment thereof on the ground of forgery can be sustained only by clear, unequivocal, and convincing testimony."

Plaintiffs' handwriting expert, Jessie G. Will, and Defendants' handwriting expert, Ernest D. Smith, testified in regard to whether or not the signatures on the disputed deeds were forgeries. After hearing testimony in this regard, taking into account the qualifications and experience of the expert witnesses, the methods used, and the exemplars used for comparison, along with a thorough examination of the exhibits presented in support of each side, the Court finds that the signatures are not genuine.

In regard to whether the signature of Nora Dorrell is a forgery, Mrs. Dorrell, herself, testified that the property in

question was never given or sold to Virgil Dorrell and she had never signed any deed conveying either of the tracts to her son Virgil. She is the only surviving party to the alleged conveyance since the acknowledgment on the deeds was undoubtedly not executed at the time of the conveyance. Tom Lucas, the notary public who executed the acknowledgment, testified that the acknowledgment was probably executed on September 29, 1971, and that he did not meet Nora Dorrell until about August of 1973. While it is the general rule that a regular certificate of acknowledgment appearing upon a deed imports veracity to the instrument, in a case where it appears the grantor did not in fact appear before the notary, the evidentiary force of the acknowledgment is destroyed or greatly lessened. Bauder v. Bauder, Okla., 155 P.2d 543 (1945).

J. R. Lilliard, a right-of-way and damages man for Oklahoma Natural Gas, testified that in April of 1973, Virgil indicated to him that he had an interest in the land, but that when Lilliard told him that it didn't show up on the records, Virgil said he knew that. Mr. Lilliard, thereafter, wrote a check on behalf of Oklahoma Natural Gas to Roy and Nora Dorrell as consideration for a right-of-way over portions of the property in question. While Virgil's signature appears on the right-of-way agreement, dated April 12, 1973, Mr. Lilliard stated that at the time of signing, Virgil didn't think he ought to sign it but that Lilliard told him that since he said he had some interest in the property he would have to sign it.

In addition, Elsie Beau and Emma Carpenter, Plaintiffs in this action and sisters of Virgil Dorrell, testified that neither Virgil nor any other party had ever indicated to them that the disputed property had been conveyed to Virgil, although the sisters remained in frequent contact with their parents. Furthermore, Elsie Beau testified that she and Virgil had discussed the sale of the property prior to his death at which time he made no assertion of ownership.

Based upon all the evidence submitted in this action, it is the determination of the Court that the signatures on the Warranty Deeds, dated April 4, 1969, conveying the Conaway and Killgore tracts from Roy and Nora Dorrell to Virgil Dorrell, are forgeries. Said deeds are, therefore, hereby invalidated. A forged deed is void, and the same, though recorded in due form, is ineffective as a muniment of title. Kline v. Mueller, Okla., 276 P. 200 (1929).

At the time of Roy Dorrell's death, title to the Conaway and Killgore tracts vested in Nora Dorrell as the surviving joint tenant. Thereafter, Nora Dorrell executed a general Warranty Deed to Elsie Beau and Emma Carpenter as tenants in common. The Court, therefore, finds that Plaintiffs' title to said property should be quieted as against the purported claims of the Defendants.

It is so Ordered this 9th day of September, 1975.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ELSIE BEAU and EMMA CARPENTER,)
)
 Plaintiffs,)
)
 vs.)
)
 ANNA M. DORRELL and SHERRELL)
 ANN DORRELL,)
)
 Defendants.)

No. 74-C-396

FILED
SEP 9 1975
Jack C. Silver, Clerk
U. S. DISTRICT COURT

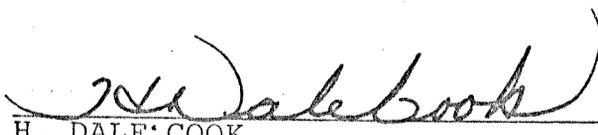
JUDGMENT

This action came on for non-jury trial before the Court, the Honorable H. Dale Cook, District Judge, presiding. The issues having been duly tried and decision having been duly rendered, the following Order is entered:

General Warranty Deeds dated April 4, 1969, conveying the Conway and Killgore tracts from Roy and Nora Dorrell to Virgil Dorrell are hereby invalidated.

Further, Nora Dorrell, surviving joint tenant, having deeded the property by General Warranty Deed to Plaintiffs, Elsie Beau and Emma Carpenter, the Court finds that Plaintiffs' title to said property should be quieted as against the purported claims of the Defendants.

Dated at Tulsa, Oklahoma, this 9th day of September, 1975.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

LEONARD RYDER,)
)
) Petitioner,)
vs.)
))
))
SAM JOHNSTON, Acting Warden, et al.,)
) Respondents.)

NO. 74-C-14 D

SEP 9 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

This is a proceeding brought pursuant to the provisions of 28 U.S.C. § 2254 by a State prisoner confined in the Lexington Regional Treatment Center at Lexington, Oklahoma, a branch of the Oklahoma State Penitentiary, McAlester, Oklahoma. Petitioner attacks the validity of the judgment and sentence imposed by the District Court of Tulsa County, State of Oklahoma, in Case No. CRF-72-1545. Therein, petitioner was convicted in jury trial of robbery with firearms, and his punishment was fixed at confinement in the Oklahoma State Penitentiary for a period of 14 years. The judgment and sentence was affirmed on direct appeal, Ryder vs. State, Okl. Cr., 513 P.2d 593 (1973). The contentions presented to this Court were presented to the high Court of the State of Oklahoma on direct appeal, and petitioner has exhausted his State remedies.

Upon remand from the Tenth Circuit Court of Appeals of this Court's previous denial of this petition, an Order to Show Cause was entered. The Court has carefully reviewed the petition, the response, and the transcript of the State proceedings consisting of the original record and a transcript of testimony on hearing of motion to suppress and jury trial in Case No. CRF-72-1545, and the Court FINDS:

1. The petitioner contends that his judgment and sentence should be vacated for the following reasons:

- A) Illegal search resulting in violation of petitioner's constitutional rights under the Fourth Amendment to the Constitution of the United States of America;
- B) Improper statement by prosecuting attorney in his final argument to the jury resulting in violation of petitioner's rights under the Sixth Amendment to the Constitution of the United States of America; and
- C) Violation of petitioner's constitutional rights under the Fifth Amendment to the Constitution of the United States of America.

The record discloses that police officers were given a description of the person who committed the crime involved by the victims, and this information was subsequently given by the police to a driver of a Yellow Cab Company cab who was in the vicinity of the robbery. The concerned driver received a call from his dispatcher to pick up a fare in the vicinity of the robbery and when he observed the passenger approaching the cab, the driver advised his dispatcher that the passenger resembled the description of the robber of the prescription shop that had been given to him previously by the police. The dispatcher for the cab company advised the police by radio of the location of the cab and of the information given by the cab driver. The arrest of the petitioner resulted.

Petitioner in his first allegation contends that:

- A) He was arrested without a warrant;
- B) No probable cause existed at the time of his arrest; and
- C) He was convicted on evidence illegally obtained without a search warrant and that said evidence was not on his person or in his control at the time of his arrest.

The record in this case does not support petitioner's allegations. The circumstances leading up to the arrest of petitioner show a course of concentrated investigation by the law enforcement officers.

In applying the standard of probable cause, one must determine whether the arresting officer possesses knowledge of facts and circumstances gained from reasonably trustworthy sources of information sufficient to justify a man of reasonable caution and prudence in believing that the arrested person has committed or is committing an offense. In this case, the record clearly shows that the police officers could reasonably believe that an offense had been committed and that petitioner had been involved. United States vs. Trabucco, 424 F.2d 1311 (5th Cir. 1970) cert. den. 399 U. S. 918; Miller vs. United States, 356 F.2d 63 (5th Cir. 1966) cert. den. 384 U. S. 912; Beck vs. Ohio, 379 U. S. 89 (1964). Under these circumstances, the police officer had probable cause to make a warrantless arrest. Conley vs. Beto, 460 F.2d 210 (5th Cir. 1972).

In the case of United States vs. Robinson, 414 U. S. 218 (1973),
the Court stated:

"It is well settled that the search incident to a lawful arrest is a traditional exception to the warrant requirement of the Fourth Amendment. This general exception has historically been formulated into two distinct propositions. The first is that a search may be made of the person of the arrestee by virtue of the lawful arrest. The second is that a search may be made of the area within the control of the arrestee."

Petitioner's allegation of an illegal search is without merit. Having determined that there was "probable cause" for the arrest of the petitioner, it must follow that the subsequent search was valid. If the knowledge and related facts and circumstances gave the arresting officers "probable cause" within the meaning of the Fourth Amendment to the Constitution of the United States of America to believe that petitioner had committed the violation charged, then the subsequent search was validly made incident to a lawful arrest and the fruits of said search were competently received in evidence at the trial. Weeks vs. United States, 232 U. S. 383, 392 (1914); Carroll vs. United States, 267 U. S. 132, 158 (1925); Agnello vs. United States, 269 U. S. 20, 30 (1925); Giordennello vs. United States, 357 U. S. 480, 483 (1958); Draper vs. United States, 358 U. S. 307, 310-311 (1959).

Under the facts and circumstances here, the arresting officers had probable cause and reasonable grounds to believe that petitioner had committed a violation of the laws of the State of Oklahoma at the time he was arrested. The arrest was therefore lawful, and the subsequent search and seizure having been made incident to that lawful arrest was likewise valid. Further, this was obviously a search permitted by the cab driver in rightful possession of the cab. It follows that petitioner's motion to suppress was properly denied and the fruits of the search were competent evidence lawfully received at the trial.

2. Petitioner's second allegation is not sustained by the record. The prosecutor's closing arguments did not deny petitioner due process or a fair trial. The record in this case does not disclose that statements made by the prosecution in closing argument resulted in denial of due process when considered in light of the evidence adduced against the

petitioner. Higgins vs. Wainwright, 424 F.2d 177 (5th Cir. 1970) cert. den. 400 U. S. 905. Claim that prosecutor engaged in unfair commentary in summation to jury raised no Federal constitutional issue in absence of showing that remarks were so improper as to deny petitioner a fundamentally fair trial. U. S. ex rel James vs. Follette, 301 F.Supp. 569 (D.C.S.D.N.Y. 1969) aff'd. 431 F.2d 708 (2d Cir. 1970) cert. den. 401 U. S. 979 (1971). See also, Donnelly vs. DeChristoforo, 416 U. S. 637 (1974).

3. Petitioner's final allegation that he was denied his rights under the Fifth Amendment to the Constitution of the United States of America is without merit and is not supported by the record. The evidence complained of by petitioner appears at Pages 90, 91 and 92 of the trial transcript and involved only the giving of petitioner's name to the police. The testimony complained of did not concern the guilt or innocence of the petitioner and was voluntarily made.

Oral statement of habeas corpus petitioner to police viewed in the totality of the circumstances, was not excludable from evidence on ground of involuntariness. Erving vs. Sigler, 327 F.Supp. 778 (D.C.Neb. 1971) aff'd. 453 F.2d 843 (8th Cir. 1972) cert. den. 406 U. S. 976.

The transcript of the proceedings in Case No. CRF-72-1545 in the District Court in and for Tulsa County, State of Oklahoma, and the pleadings in this case, conclusively show that the petitioner is not entitled to relief. Therefore, there is no necessity for this Court to hold an evidentiary hearing. Semet vs. United States, 369 F.2d 90 (10th Cir. 1966).

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Leonard Ryder be and it is hereby denied and the case is dismissed.

Dated this 9th day of September, 1975, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MARION COLLINS,
Plaintiff,
vs.
N-REN CORPORATION, a
Delaware Corporation,
Defendant.

No. 75-C-15 ✓

FILED

SEP 8 1975

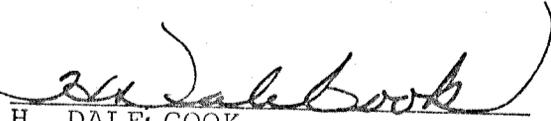
Jack C. Sibley, Clerk
U. S. DISTRICT COURT

ORDER

Pre-Trial in the above-styled case came on for hearing on July 7, 1975, at which time Plaintiff's counsel, Jack B. Sellers, failed to appear. Subsequent thereto, Plaintiff, Marion Collins, by and through his attorney, Jack B. Sellers, filed a Motion for Additional Time to Complete Pre-Trial. By Order of the Court, Plaintiff was granted until August 15, 1975, to file his Pre-Trial Order in this case. Notwithstanding numerous contacts by the Court in regard to meeting said requirement, Plaintiff has failed to comply therewith.

Plaintiff's cause of action is, therefore, hereby dismissed, without prejudice, for failure to comply with the Orders of the Court.

It is so Ordered this 8th day of September, 1975.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 73-C-330 ✓
)	
97.24 ACRES OF LAND, MORE OR	)	Tracts Nos. 132, 136E-1,
LESS, SITUATE IN WASHINGTON	)	136E-2 and 136E-3
COUNTY, STATE OF OKLAHOMA, AND)	
HEIRS OF EDITH SLACK WILSON,)	
ET AL., AND UNKNOWN OWNERS,)	
)	
Defendants.)	

FILED
SEP 1975
Jack C. [unclear]
U. S. DISTRICT COURT

JUDGMENT AND MEMORANDUM

The Plaintiff, the United States of America, brings this action for the condemnation of 97.24 acres of land. The action involves the taking of the fee simple title to 80 acres designated in the Complaint as Tract No. 132 and the taking of easements for flowage rights to three other parcels of land designated as 136E-1, 136E-2, and 136E-3. The parties stipulated that testimony, if presented by both parties in regard to the value of the flowage easements, would indicate the value to be:

136E-1	\$542.50
136E-2	\$ 60.00
136E-3	\$525.00

Likewise the parties agreed testimony in regard to the value of the mineral inconvenience would indicate said value to be \$145.00.

The issue remaining for determination by the Court is the amount of compensation to be paid the Defendants for the taking of the fee simple to Tract No. 132. Defendants' expert witness, Otis Gore, testified the fair market value of the property to be \$40,000.00. Plaintiff's expert witness, Lance Larey, citing several comparable sales in the area, determined the fair market value to be \$38,000.00. Based upon the testimony presented, the market value of the property is determined to be \$38,000.00.

Defendants contend that in view of the fact that the Defendants, five restricted Indians, enjoy a tax-exempt status in regard to the property, they are entitled to a sum over and above the market value to compensate them for the loss of their tax-exempt status in the property. This issue remains in order to determine the amount of just compensation due.

The judicial ascertainment of the amount that should be paid to the owner of private property taken for public use through exertion of the sovereign power of eminent domain is always a matter of importance for, as said in Monongahela Navigation Co. v. United States, 148 U.S. 312, 13 S.Ct. 622, 37 L.Ed 463 (1892): "In any society the fullness and sufficiency of the securities which surround the individual in the use and enjoyment of his property constitute one of the most certain tests of the government." The statement in that opinion that "no private property shall be appropriated to public uses unless a full and exact equivalent for it be returned to the owner" aptly expresses the scope of the constitutional safeguard against the uncompensated taking or use of private property for public purposes. Olson v. United States, 292 U.S. 246, 54 S.Ct. 704, 78 L.Ed. 1236 (1934).

Under the Fifth Amendment the owner of land taken by condemnation is entitled to "just compensation." "The key notion is indemnity, measured in money, for the owner's loss of the condemned property." Westchester County Park Commission v. United States, 143 F.2d 688 (2d Cir. 1944). There are various methods for determining what constitutes "just compensation," the most basic of which is fair market value. It is clear from an examination of cases in this area, however, that while Courts may utilize varying criteria in the determination of whether "just compensation" should be measured by the fair market value or another method, and are even divergent as to the elements to be considered in arriving at "fair market value," they all have endeavored to adapt the various methods to the individual factors

presented in each case in an attempt to afford the landowner just compensation. It has been held, for example, that the basis of evaluation is not what the taker gained but rather that which the owner lost. Olson, supra; United States v. Powelson, 319 U.S. 266, 63 S.Ct. 1047, 87 L.Ed. 1390 (1943); Boston Chamber of Commerce v. Boston, 217 U.S. 189, 30 S.Ct. 459, 54 L.Ed. 725 (1910). In United States v. Sowards, 370 F.2d 87 (10th Cir. 1966), the Court stated that the "sovereign must place the owner in as good a position pecuniarily as he would have been had his property not been taken."

Therefore, it is the duty of this Court to determine what amount constitutes "just compensation" to the Defendant Indians for the taking of the restricted tax-exempt property involved in this condemnation and to put them in as good a position pecuniarily as if their property had not been taken.

As stated in 4 Nichols, Law of Eminent Domain, § 12.32(2), pg. 365: "It sometimes happens that one of the features which gives a piece of property its special value would be lost if the property was sold; nevertheless the owner is entitled to the added value which the feature in question gives to his property." Likewise, in 1 Orgel, Valuation Under Eminent Domain, § 45, pg. 215, the writer notes that "the small number of reported decisions dealing with [the admissability of evidence bearing on the peculiar value of the property to its owner] indicate that if the aptitudes are such that they can be readily translated into pecuniary terms, not only will evidence of such aptitude be admitted, but the award of compensation will properly include an allowance in addition to market value as indemnity for the peculiar loss to the owner."

There are few cases dealing with the issue of whether the tax-free status to a landowner should be added to the fair market value in order to determine "just compensation." Only two Federal cases have been found dealing specifically with tax-exempt Indian property.

In United States v. 205.03 Acres of Land, 251 F.Supp. 858 (W.D.Pa. 1966), involving a determination of the amount of just compensation to Defendant Indian landowners for property which they held in a tax-free status, at the trial the Government contended, as they do in the present case, that evidence should be restricted to that of fair market value, no consideration being given to the tax free status, because that is an incident peculiar to the owner -- not to the land. The Court, noting that the market value test is not applied in all cases, determined that the lands in question had no market value in the usual sense, the property being both tax free and restricted, and therefore resort to the best data available to ascertain just compensation was used. The Court held that the Indians were entitled to have the land considered by the Jury with all its benefits and all its restrictions.

In United States v. Certain Parcels of Land in Cattaraugus County, New York, 327 F.Supp. 181 (1970), affirmed 443 F.2d 375 (1970), the determination of just compensation was referred to a commission. The action involved the taking of approximately 10,000 acres of land within the Allegheny Indian Reservation. The evidence before the commission consisted primarily of expert opinion concerning the value of the subject tracts according to the expert's conclusions regarding the highest and best use of the land appropriated. The commission thereafter first determined the actual damages without considering the tax-exempt status and then a higher amount considering the exemption. The Court had instructed the commission:

"In determining fair market value, you are to consider the extent to which the property, including improvements, is exempt from taxation. Your award of just compensation should consider the additional fair market value such property would have had if subjected to taxation . . . "

The Government objected to awarding Defendants any compensation for tax benefits. They relied in part on Westchester Co.

Park Commission v. United States, supra, in which the land condemned was tax exempt, being held by the County as park property. The Court in Westchester first recognized that while the legal concept of market value for the highest and best use of the property condemned is the generally accepted measure of just compensation, this rule is not inflexible or "autocratically absolute." State of Nebraska v. United States, 164 F.2d 866 (8th Cir. 1947). The Westchester Court held that the fact that the lands involved could not be sold or leased without authorization from the State did not preclude the application of the fair market theory. "Neither is the value of the land affected by the fact that, when taken, it was tax exempt." While this statement tends to support the Government's position, in Westchester the Court was not faced with the Defendant County's sustaining of an unreimbursed loss over and above the fair market value by the taking of the tax-free property since any substitute property the County might acquire for park purposes would undoubtedly likewise have been tax exempt.

In United States v. Certain Parcels of Land in Cattaraugus County, New York, supra, the Court held that:

". . . in this case the standard of just compensation cannot be measured by fair market value alone. Indians, who have lost their land by the government taking are reimbursed for the market value alone, have not been made whole, since thereafter they do not own lands which are free from taxation. Anyone who owns property cannot seriously dispute that if he was not required to pay taxes and the property was taken from him, 'just compensation' would only be made if allowances were awarded considering the exemption. Fair market value, determined by a willing buyer and a willing seller, would not reflect that status, since the privilege of being exempt from taxes is not transferable. In such situations, it is the loss to the Indian -- not the gain to the purchaser -- which just compensation must reflect. The concept of fair market value, therefore, as traditionally used, does not reflect the owner's loss. The method used by the commission, by calculating the equivalent of a financial return to the owner by the capitalization method utilized, did reflect that loss in a manner designed to render just compensation to the Indian land-owners."

The Court thereafter further considered the Government's contention that the commission erred in failing to take into account the restraint on alienation. The Court noted, however, that the Government "treated the property as if it was not tax exempt and made no offer of any proof whatsoever with regard to any market value taking into consideration the tax-exempt status." Therefore, the Court held that if the amounts attributed to the tax-exempt status by the commission failed to take into account the devaluing factor of the restraint on alienation, that omission resulted from the Government's failure to introduce proof of the subject. The Court further noted that while the restraint could be considered detrimental, the same restraint immunized the land from the claims of creditors.

Both previously cited cases dealing with tax-exempt Indian properties relied in part on a 1912 decision, Old South Ass'n In Boston v. City of Boston, 212 Mass. 299, 99 N.E. 235 (1912), cited as authority in Kimball Laundry Co. v. United States, 338 U.S. 1 (1948). In Old South Ass'n, the land taken was tax exempt as long as it remained in the Petitioner's hands, but would not be tax exempt if sold. The Petitioner appealed from the Court's refusal to charge the jury:

"That in addition to the damages which would be awarded to an ordinary petitioner this petitioner is entitled to such a sum as will in the opinion of the jury compensate it for that feature or special damage contained in its loss by the taking which is created by the charter exemption from taxation of the space taken."

A special verdict was rendered, awarding \$100,000.00, and fixing an additional sum of \$25,000.00 if the instruction quoted above should have been given. The appellate court held that the requested instruction should have been given, and that the petitioner should recover the sum of \$25,000.00 in addition to the market value of the land taken.

In keeping with the above and with the Supreme Court directive that no private property shall be appropriated unless a full and

exact equivalent for it be returned to the owner, Defendants' loss of the tax-exempt status being readily translatable into pecuniary terms, it is the determination of this Court that the capitalization of the Defendants' tax-exempt status as testified to by their expert, Gerald W. Ashley, should be added to the previously determined market value to afford just compensation.

Mr. Ashley testified regarding two methods used to ascertain the amount of this capitalization. By applying an assessed value of sixteen percent to the \$38,000.00 previously determined to be the value of the 80 acres, and applying the 1974 real estate tax of \$71.04 per \$1,000.00, the taxes for one year would amount to \$431.92. Assuming a seven percent overall or discount rate, a forty-year holding period and a present worth of 1 per period factor (13.331709), the value of income or tax loss would be \$5,758.23.

This amount is, therefore, hereby added to the \$38,000.00 making the just compensation for the taking of the fee simple to Tract No. 132 \$43,758.23. In keeping with stipulations in regard to the taking of flowage easements, the just compensation for 136E-1 shall be \$542.50, for 136E-2 shall be \$60.00, and for 136E-3 shall be \$525.00, making a total award for the 97.24 acres involved herein to be \$44,885.73.

It is so Ordered this 8th day of September, 1975.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) CIVIL ACTION NO. 73-C-330 ✓
)
 97.24 ACRES OF LAND, MORE OR) Tracts Nos. 132, 136E-1,
 LESS, SITUATE IN WASHINGTON) 136E-2 and 136E-3
 COUNTY, STATE OF OKLAHOMA, AND)
 HEIRS OF EDITH SLACK WILSON,)
 ET AL., AND UNKNOWN OWNERS,)
)
 Defendants.)

FILED
SEP 8 1975
Jack C. [unclear]
U. S. DISTRICT COURT

JUDGMENT

This action came on for non-jury trial before the Court, the Honorable H. Dale Cook, District Judge, presiding. The issues having been duly tried and decision having been duly rendered, the following Order is entered:

IT IS ORDERED AND ADJUDGED that the amount of \$44,885.73 be paid Defendants as just compensation for the taking of the 97.24 acres involved herein.

IT IS SO ORDERED this 8th day of September, 1975.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ALFRED ALLEN LOWE and THE
COMMITTEE ON EQUAL EMPLOYMENT
PRACTICES,

Plaintiffs,

vs.

LEE WAY MOTOR FREIGHT, INC., and
THE TEAMSTERS UNION LOCAL 523, a/k/a
Tulsa General Drivers, Warehousemen
and Helpers, Local 523,

Defendants.

No. 75-C-45 ✓

FILED

SEP 8 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

This action regularly comes on for pre-trial conference on this 27th day of August, 1975. The plaintiffs appear by their attorneys, Gerald E. Kamins and Darrell L. Bolton. The defendant, Lee Way Motor Freight, Inc., appears by its attorneys, Paul Scott Kelly, Jr., Loyd E. Owen, Jr. and Donald E. Hammer. The defendant, The Teamsters Union Local 523, a/k/a Tulsa General Drivers, Warehousemen and Helpers Local 523, appears by its attorney, Maynard I. Ungerman. Upon the statements and representations of counsel and there being no objections interposed thereto, it is by the Court ORDERED:

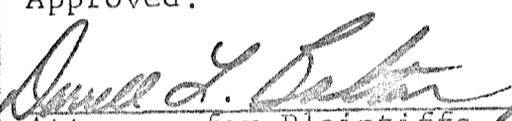
1. The complaint and the action by the plaintiff, The Committee on Equal Employment Practices, is hereby dismissed with prejudice. There being no remaining complaint against or relief sought from the defendant, The Teamsters Union Local 523, a/k/a Tulsa General Drivers, Warehousemen and Helpers Local 523, said former defendant is dismissed from this action and its counsel excused from any further attendance at proceedings in this action.

2. This action is set for trial to the Court on February 11, 1976, at 10:00 o'clock a.m. The plaintiff is granted twenty days from and after this date within which to file and serve interrogatories upon the defendant.

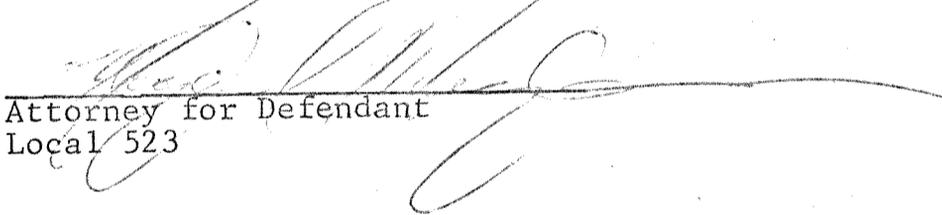
3. The plaintiff and the defendant will, within thirty days from this date, present to the Court for its approval and entry an agreed-to pre-trial order, prepared in accordance with the rules of this court. The parties may supplement such order with additional witnesses and exhibits up to thirty days prior to the trial date set. As soon as practical and in any event not later than thirty days prior to the date of trial, the parties will furnish to opposing counsel and to the Court copies of exhibits which they plan to offer at the trial together with a concise explanation of the meaning and relevance of any exhibit which is not self-explanatory.


H. DALE COOK
UNITED STATES DISTRICT JUDGE

Approved:

 
Attorney for Plaintiffs


Attorney for Defendant,
Lee Way Motor Freight, Inc.


Attorney for Defendant
Local 523

K

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA and)
JIM McLEAN, Revenue Officer,)
Internal Revenue Service,)
)
Petitioners,)
)
v.)
)
BRADLEY BALL,)
)
Respondent.)

No. 75-C-342

FILED

SEP 11 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Good cause appearing in Plaintiff's motion to dismiss, filed together herewith, and there being no objection from defendant, it is hereby

ORDERED, ADJUDGED AND DECREED that this cause of action *and complaint are* dismissed, without prejudice.

Cecilia F. Bonawit

Chief Judge, United States District
Court for the Northern District of
Oklahoma

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) No. 75-CR-100
)
 THOMAS JAMES STARR,)
)
 Defendant.)

FILED
SEP 8 1975

Jack G. Silver, Clerk
U. S. DISTRICT COURT

ORDER OVERRULING MOTION FOR NEW TRIAL

Defendant, Thomas James Starr, was tried and found guilty by a jury on August 8, 1975, on each of two counts of passing and uttering a forged and counterfeited obligation of the United States in violation of 18 U.S.C., § 472.

The Defendant has filed a Motion for New Trial on the grounds that the Court:

1. Erred in denying Defendant's Motion for Acquittal made at the conclusion of the Government's evidence;
2. Erred in admitting the in-court identification of the Defendant by the witness, Judy Ann Van Dusen;
3. Erred in admitting the counterfeit bill alleged to have been passed at the Winchell's Do-Nut Shop; and
4. Erred in admitting the counterfeit bill alleged to have been passed at the Best-Yet Food Store.

The Defendant contends that the evidence was not sufficient to support a finding that the Defendant knew that the bills were counterfeit. Defendant argues that the circumstances surrounding the passing of the bill would require an inference that the Defendant had knowledge of its counterfeit nature when an equal inference could be drawn that the Defendant did not know of the counterfeit nature of the bill. The Court instructed the jury on the use of circumstantial evidence in considering their verdict. The Court instructed the jury on the definition of an

inference which may be drawn from facts which have been proved. In addition the Court instructed the jury on the use of circumstantial evidence in finding whether the Defendant had the requisite intent and intent to defraud as charged in the indictment. The Court is unwilling to assume that the jury disregarded these instructions in finding that the Defendant knew that the bills were counterfeit and possessed the requisite intent to defraud. United States v. Wilkinson, 460 F.2d 725 (5th Cir. 1972). When determining the sufficiency of the evidence to support a guilty verdict, the Court considers the evidence in a light most favorable to the prosecution and unless a jury verdict is clearly erroneous the verdict must stand. United States v. Downen, 496 F.2d 314 (10th Cir. 1974).

The Defendant argues that the Court should not have allowed the in-court identification of the Defendant by the witness, Judy Ann Van Dusen. The Court conducted a hearing prior to allowing the in-court identification. Counsel for the Defendant was permitted to examine the witness to determine the basis for her identification. The witness testified that she was certain that the Defendant was the individual who had passed the counterfeit bill to her. The Court observed the photographic spread on which the allegations of prejudice were premised. After careful consideration of the evidence and arguments of counsel, the Court found that the pre-trial identification had not been unduly suggestive and thus the in-court identification was not tainted. Prejudice from pre-trial identifications must be determined from the facts of the particular case. United States v. Maxwell, 456 F.2d 1053 (10th Cir. 1972).

The Defendant argues that the witness, Judy Ann Van Dusen, could not positively identify the bill which was placed into evidence as Plaintiff's Exhibit No. 1 and alleged to be the bill passed by the Defendant. The witness, Judy Ann Van Dusen, testified that she was the only person in the Winchell's Do-Nut Shop

when the Defendant, Thomas James Starr entered and passed a \$20.00 bill to her as payment for the Defendant's order. She further testified that she took particular notice of the bill at the time it was given to her by the Defendant because the bill was wrinkled and had a different shade of green on the back. She testified that she did not know what to do with the bill because she had no instructions on what to do when she received a bill that did not appear to be genuine. She testified that she put the bill below the change drawer and shortly thereafter gave it to the manager who initialed it and took it to the bank where it was determined to be counterfeit. She stated that she was not certain that Plaintiff's Exhibit No. 1 was the same bill because she did not record the serial number. She testified that she received no other \$20.00 bill after receiving the suspect bill. Other witnesses testified that Plaintiff's Exhibit No. 1 was the bill which was given to them by the witness, Judy Ann Van Dusen, and identified by her as the bill passed by the Defendant.

The Plaintiff established the identification of Plaintiff's Exhibit No. 1 by presenting testimony as to the initials placed on the bill by the manager of Winchell's Do-Nut Shop, two bank employees and the government agent. The fact that Van Dusen could not positively identify Plaintiff's Exhibit No. 1 does not present sufficient doubt that this was not the bill passed by the Defendant when other witnesses positively identified the exhibit as having been previously identified by Van Dusen as the bill which the Defendant passed to her.

The Defendant alleges as the final error the admission into evidence Plaintiff's Exhibit No. 2 which is the \$20.00 bill alleged to have been passed to the witness, Javada Barnes, at Best Yet Food Store in Tulsa, Oklahoma. Defendant argues that Barnes was not able to identify the Defendant as being the individual who gave her the bill. The testimony given by Barnes

is clear. She could not identify the Defendant or was not positive that Plaintiff's Exhibit No. 2 was the bill she received on June 4, 1975. However, she testified that immediately upon receiving the bill on June 4, 1975, she recognized it to be questionable and asked the party who had passed it to wait while she consulted with the manager at Best-Yet, John Fivecoats. Fivecoats testified that he examined the bill and called the police who took the bill. Fivecoats also testified that he discussed the bill with the Defendant, Starr, who was identified to him by Javada Barnes as the person who had given the bill to her. The Defendant never objected to Fivecoats' questions of him as the man who had passed the bill to Barnes.

John Fivecoats testified that Plaintiff's Exhibit No. 2 was the bill which had been given to him by Barnes. Barnes connected the bill which she gave to Fivecoats with the Defendant. Thus the identity of the Defendant as the person who passed a counterfeit bill and the identity of Plaintiff's Exhibit No. 2 as the bill that was passed by the Defendant have been established. The Court did not err in admitting Plaintiff's Exhibit No. 2 into evidence.

Based upon the foregoing the Defendant's Motion for New Trial should be and hereby overruled.

It is so Ordered this 8th day of September, 1975.


H. DALE COOK
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

Jack C. Silver, Clerk *m m*
U. S. DISTRICT COURT

JOHN T. DUNLOP, Secretary of Labor,)
United States Department of Labor,)
Plaintiff)
v.)
TRI-STATE INSURANCE COMPANY,)
Defendant)

Civil Action

No. 75-C-71 ✓

ORDER OF DISMISSAL

This cause came on for consideration upon the stipulation of the parties, and it appearing that the defendant promised plaintiff and this Court that it will comply with the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 USC 201 et seq.), hereinafter referred to as the Act, that the defendant paid to the plaintiff the wages in the amount stipulated, which the Court finds to be the total due to defendant's employees under the Act to date of this order, and the Court being otherwise fully advised in the premises, it is,

ORDERED, ADJUDGED and DECREED that this ^{*cause of action of Complaint*} ~~action~~ be, _{*are*} and the same hereby ~~is~~, dismissed. It is further

ORDERED that upon receipt by Plaintiff of unpaid wages as provided in this order, he shall promptly proceed to make distribution to the persons named in said stipulation of the parties or to the legal representative of the persons so named if any person should become deceased. If after making reasonable and diligent efforts to disburse said unpaid wages to the persons entitled thereto, plaintiff is unable to do so because of inability to locate the proper person, or because

of a refusal to accept payment of any such person, he shall, as provided in 28 USC 2041, deposit such unpaid funds with the Clerk of this Court. Any of such funds may be withdrawn for payment to a person entitled thereto upon order of this Court.



UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

PAUL L. JOHNSON,)
)
Petitioner,)
vs.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

NO. 75-C-231 ✓

O R D E R

The Court has for consideration a pro se, in forma pauperis pleading filed pursuant to 28 U.S.C. § 2255 by Paul L. Johnson, a Federal prisoner confined in the United States Reformatory at El Reno, Oklahoma.

In this Court in Case No. 74-CR-66, Petitioner, upon his plea of guilty, was convicted of false statements in the acquisition of a firearm in violation of 18 U.S.C. § 922(a)(6), and he was sentenced July 2, 1974, to imprisonment for 18 months, eligible for parole in the parole board's discretion pursuant to 18 U.S.C. § 4208(a)(2).

Petitioner contends that in the computation of his sentence he has not been given his good time credits, and he claims that he should be immediately released since if he had been given his good time credits his sentence is fully served. He makes no allegation or showing that he has exhausted his administrative procedures or remedies.

After careful review of this § 2255 motion, the criminal file bearing Case No. 74-CR-66, and being fully advised in the premises, the Court finds that credit for time served, including good time credits earned, is an administrative responsibility unrelated to the sentencing process. The Petitioner does not challenge as unconstitutional his plea, conviction or sentence, and his allegation that he has not received good time credits is not directed toward proceedings in this Court cognizable under 28 U.S.C. § 2255. Therefore, a response or hearing is not required, and his motion to this Court should be denied and dismissed. Rather, if Court action is necessary to obtain his good time credits in computing his sentence after

he has exhausted his administrative remedies at the institution, the Petitioner should file a habeas corpus or mandamus petition with the Court having jurisdiction over his place of incarceration. Bice v. United States, ___ F.2d ___ (10th Cir. No. 75-1267 filed August 20, 1975) and cases cited therein.

IT IS, THEREFORE, ORDERED that the § 2255 motion of Paul L. Johnson be and it is hereby overruled, the cause denied, and the case is dismissed.

Dated this 3rd day of September, 1975, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FANNYE RAE MARSHAK)
)
 Plaintiff,)
)
 vs.)
)
 BLYTH EASTMAN DILLON & CO., INC.;)
 and ROBERT A. SANDITEN)
)
 Defendants.)

No. 74-C-308 ✓

FILED

SEP 3 1975 *mm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

MEMORANDUM AND JUDGMENT

Plaintiff, Fannye Rae Marshak, instituted the above styled action seeking damages and an accounting of profits on securities traded in her account by the Defendants, Blyth Eastman Dillon & Co., Inc., a brokerage firm, and Robert A. Sanditen, an employee of Blyth Eastman Dillon & Co., Inc., the individual broker who was in charge of Plaintiff's margin account. Plaintiff asserts violation of the provisions of the Securities and Exchange Act of 1934 with respect to "churning" of Plaintiff's account by the Defendants, unauthorized purchases and sales of securities for the Plaintiff's account and trading in the corporate Defendant's own securities without authorization.

Federal jurisdiction is invoked under the provisions of the Securities Exchange Act of 1934, particularly 15 U.S.C. §§ 78j, 78t, 78o and 78aa, and Rule 10b-5 promulgated by the Securities Exchange Commission 17 C.F.R. 240.10b-5.

The parties agree that the Defendant, Robert A. Sanditen, was, at all times material, an agent of the Defendant, Blyth Eastman Dillon & Co., Inc., and was acting within the scope and course of his employment in connection with the transactions complained of. In addition, it is agreed that Plaintiff's husband, Gerald Marshak, at all times material to this action, was acting as the agent of the Plaintiff within the scope and course of his

authority in connection with the transactions which are the subject matter of this suit. Therefore, actions taken by the Plaintiff's husband and the extent of his knowledge and degree of sophistication are imputed to the Plaintiff.

The conduct of Defendants of which Plaintiff complains fall basically into three broad categories: 1) Churning, 2) Unauthorized trading, and 3) Unsuitable investments.

CHURNING

"Churning" is a technical securities law term connoting excessive trading by a broker disproportionate to the size of the account involved, in order to generate commissions."

Dzenits v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 494 F.2d 168 (10th Cir. 1974).^{1/} The gravamen of an allegation of churning is the existence of fraud, referring to fraud in law. It is in the nature of constructive fraud in that it is considered a scheme under Rule 10b-5, the essence of which is deception of the customer and the reliance of customer on the integrity of the broker. Dzenits v. Merrill Lynch, Pierce, Fenner & Smith, Inc., supra. The Courts have considered varying factors, which fall into three basic categories, to determine the existence of a churning violation: First, whether the trading was excessive; second, whether Defendant's purpose in buying and selling securities was to advance his own interests by generating commissions; and third, whether the Plaintiff client was relatively uninformed in the stock market and therefore relied on the competence of the broker.

1/ The SEC has defined "churning" in a regulation. See 17 C.F.R. 240.15(c) 1-7(a) which reads: "The term 'manipulative, deceptive, or other fraudulent device or contrivance,' as used in section 15(c) of the act, is hereby defined to include any act of any broker or dealer designed to effect with or for any customer's account in respect to which such broker or dealer or his agent or employee is vested with any discretionary power any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account."

"In a churning case the independent objectives of a customer are an important standard against which to measure claimed excessiveness." Fey v. Walston & Co., Inc., 493 F.2d 1036 (7th Cir. 1974).^{2/} Booth v. Peavey Co. Commodity Services, 430 F.2d 132 (8th Cir. 1970); Hecht v. Harris, Upham & Co., 283 F.Supp. 417, 432 (N.D.Cal. 1968), modified in part and aff'd, 430 F.2d 1202 (9th Cir. 1970); Moscarelli v. Stamm, 288 F.Supp. 453 (E.D.N.Y. 1968). In this regard, the testimony is clear as to the objectives of the Plaintiff. Plaintiff's husband testified that during the time the account was handled by the Defendants: "We wanted profits." In addition, Defendant Sanditen testified that the Plaintiff's primary purpose and objective as stated to him by Mr. Marshak was the desire for quick short-term profits. In regard to quick profits, Mr. Marshak advised that he considered quick profits to be the buying in one day and selling the next.^{3/} As noted in Fey v. Walston & Co., supra, if a salesman does only what the customer independently has in mind as an objective, additional motive of the salesman to earn commissions does not convert the transaction into a deceptive or manipulative device.

As a technique to determine excessiveness regarding turnover, courts have also considered turnover rate of the account (defined as the aggregate amount of purchases divided by the average cumulative monthly investments.) Steven v. Abbott, Proctor & Paine, 288 F.Supp. 836 (E.D.Va. 1968), Hecht v. Harris, Upham & Co., 283 F.Supp. 417 (1968). The parties agree that the turnover rate in Plaintiff's account during the eleven months of heaviest trading which existed from October 1971 through August 1972 was 3.11. However, the turnover rate of the stock during the entire

2/ Opinion by Judge Christensen, Senior District Judge of the District of Utah sitting by designation.

3/ The Marshaks' investment objective of profits rather than, for example dividend income or long term growth, is further evidenced by the type of accounts they maintained with other brokerage firms. According to an expert witness in the brokerage field, an examination of the type and quality of stock maintained by the Marshaks in two other accounts showed it to be "non-rated," highly speculative stock.

duration that the account was handled by the Defendants was only approximately 1.226. It cannot be said this is clearly excessive.

As previously stated, the second factor looked to in establishing "churning" is the objective of the broker in handling the account. It is recognized that churning differs from common law fraud in that proof of churning does not require proof of a specific or invidious intent to defraud. Dzenits v. Merrill Lynch, Pierce, Fenner & Smith, Inc., supra. However, as stated in Dzenits, the term "churning" connotes action by the broker "in order to generate commissions." Therefore, the courts have compared the dealer's profits with the size of the customer's account in order to determine whether the broker's purpose was to generate commissions. As example, the Court in Stevens v. Abbott, Proctor & Paine, supra, noted that as of the date Plaintiff's portfolio was turned over to Defendants, it consisted of stocks in the amount of \$204,600.01; and Defendants earned a commission thereon of \$59,000.00 in the subsequent handling of the account. Likewise in Hecht v. Harris, Upham & Co., supra, the churning of an account initially worth \$533,161.00 produced commissions and mark-ups of \$189,000.00. In the case at bar, the value of Plaintiff's account in terms of stock initially transferred thereto was approximately \$150,000.00. As agreed to in the Pre-Trial Order filed herein, "the commissions paid by Plaintiff to Defendant corporation from the commencement of the account until its termination totaled \$3,337.01." Plaintiff's Supplemental Trial Brief, filed herein, supplements this figure by adding an additional \$749.37 for previously undisclosed broker's commissions on purchases and sales and a profit of \$1,123.74 the brokerage firm made on "make-a-market" stock.^{4/}

^{4/} Plaintiff alleges that purchases of stock on which Defendants were "making-a-market" are particularly suspect in that Defendants would make greater undisclosed profits when an investor purchased these stocks. It is worth noting, however, that on the purchases and sales of the "make-a-market" stock in the Marshak account, Plaintiffs made in excess of \$800.00 profit.

Even if the additional commissions alleged by Plaintiff are added to the totals, the total of \$5,210.13 does not indicate that the broker's sole purpose in the handling of the account was to generate commissions, particularly in light of the fact that Plaintiff's investment objective was short term profit.

The third consideration is the evidence bearing upon the experience, sophistication or trading naivete of the customer. Fey v. Walston & Co., Inc., supra. While the evidence reflects little doubt that Plaintiff, Mrs. Marshak, was not an informed investor, her husband, as stated, acted as her agent and therefore it is his knowledge of the stock market and his sophistication thereto that must be considered. Mr. Marshak first began trading in the stock markets in approximately the year 1958 and has had stock accounts with various brokerage firms since that time. During much of the time his account was handled by Defendants, he was a member of a stock club which met monthly to discuss various stock investments. Defendant Sanditen and other members associated with Blyth Eastman Dillon & Co. also attended various stock club investment meetings. He was also an occasional subscriber to the Wall Street Journal. Mr. Marshak testified that he personally went to Defendants' offices from three to five times a month to check on the account, stock prices, and review the general handling of the account. (Defendant Sanditen estimated Mr. Marshak visited their offices from two to three times a week.) In addition, Mr. Marshak advised that he talked with Defendant Sanditen over the telephone, "almost on a daily basis." Marshak, when asked if, during 1971, 1972, and 1973 he knew the price of almost every stock that he maintained for his wife in her portfolio, replied, "Yes sir." In addition, the Marshaks received confirmation slips on each transaction and monthly account statements. In the light of these factors, it cannot be said that Mr. Marshak was an uninformed investor.

According to the testimony of one expert witness, there are practically no sophisticated investors in this part of the country and many stock brokers themselves, he believed, cannot be considered sophisticated. It would obviously be impractical for the Court to require this high a degree of sophistication. Rather the Court must determine whether the investor is so uninformed that the stock broker is in a position to manipulate the account and perpetrate fraud on the unwary investor or whether, on the other hand, the investor is knowledgeable enough to warrant holding him responsible for the maintenance of his own affairs. The background of Mr. Marshak and participation in the handling of the account leads the Court to but one conclusion, that being he was neither uninformed nor unsophisticated to such degree.

In light of Plaintiff's acknowledged objective of short term profits, the turnover rate cannot be considered excessive, nor can it be said that Defendants' purpose in the stock purchases and sales was contrary to the objective of the investor and for the sole purpose of generating commissions. These factors, plus the fact that Mr. Marshak cannot be characterized as an uninformed investor, lead the Court to conclude that the Defendants are not liable for churning.

UNAUTHORIZED TRADING

Plaintiff also contends Defendants are liable for unauthorized trading. It is agreed by the parties that the account as set up by the Marshaks was ostensibly to be a nondiscretionary account, meaning that only Mrs. Marshak or her authorized agent could authorize transactions in the account. Defendants admit that various purchases and sales were made in the account without prior approval of the investor. Plaintiff alleges that in March of 1972 and again in April of 1972, Mr. Marshak voiced objection to Defendant Sanditen's superior, Mr. Chozen, about Sanditen's purchase of stock with authority. However, as Mr. Chozen testified,

the only complaint he received from Mr. Marshak regarded the Defendant Sanditen's purchase of a particular stock, that being American La France, because he was not consulted prior to the purchase. Mr. Sanditen also testified that the only objection made by Mr. Marshak, as related to him by Mr. Chozen, regarded the American La France transaction. It appears from the evidence that the objection was not directed so much to the sale, but to the fact that the "quick profit" purposes of the account had not been achieved to the satisfaction of the Plaintiff. Mr. Marshak concedes that at no time did he voice any type of objection directly to Mr. Sanditen regarding the manner in which he was handling the account and concedes that he had every opportunity to voice such objection if he had so desired.

A similar allegation of unauthorized trading was litigated in Ocrant v. Dean Witter & Co., Inc., 502 F.2d 854 (10th Cir. 1974). In Ocrant, the Plaintiff, an unsophisticated investor, opened a nondiscretionary account. She paid virtually no attention to the account and relied exclusively on her husband's judgment and knowledge. Mrs. Ocrant, as does Plaintiff in part in this case, relied on the Rules of the New York Stock Exchange, and particularly Rule 408. Rule 408 does in fact indicate a requirement that an agency be established in writing before a member, allied member, or an employee of a member organization exercises discretionary power in a customer's account. However, as stated by the Court in Ocrant:

". . . while we recognize that in an appropriate case, violations of exchange rules designed for customer protection might give rise to a private cause of action (see, e.g. Buttrey v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 410 F.2d 135 (7th Cir.), cert. denied 396 U.S. 838, 90 S.Ct. 98, 24 L.Ed. 2d 88), such a case is not now before us. Throughout this action Mrs. Ocrant has stressed her complete reliance on her husband's skill and expertise to excuse her own inattentiveness and inaction. She cannot now reject that reliance for purposes of disaffirming his activities."

In Ocrant, Plaintiff objected to the admitted unauthorized sale of stock nine months after the sale. The Court, noting that nine months prior to voicing an objection, Mr. Ocrant had sufficient information to put him on notice of the transaction, stated that the fact that an investor of Mr. Ocrant's sophistication and awareness did not avail himself of the opportunity to correct the mistake if one occurred, suggests ratification of the original sale. The Court noted cases dealing with similar circumstances which furnished precedent for the foreclosure of Mrs. Ocrant's recovery. For example, in Nash v. J. Arthur Warner & Co., 137 F.Supp. 615 (D.C.Mass. 1955), involving an allegation of churning, the Court denied plaintiff recovery stating therein:

"Neither the partnership nor the corporation has made any unreasonable or unusual profit in handling the account of plaintiffs. Neither the partnership nor the corporation failed in any duty imposed upon them as brokers, fiduciaries, principals, or otherwise. Even if there had been a breach of duty, which there was not, each of the plaintiffs by repeatedly accepting confirmations and accounts which fully disclosed all aspects of the transactions, elected not to rely upon that breach. Moreover, by failing seasonably to make complaints of facts which each of the plaintiff's was informed, each would in any event, be barred from the late assertion of any wrong alleged to have been done by the partnership or corporation."

The Court in Merrill Lynch, Pierce, Fenner & Smith, Inc., v. Bock, 247 F.Supp. 373 (S.D.Tex. 1965), denied recovery stating that it did not consider the Plaintiff's failure to object within an eleven-month period to be reasonable and was of the opinion that by his failure within a reasonable period to disaffirm, Plaintiff ratified, waived and was estopped from assertion of liability. The Court quoting from Meyer, the Law of Stockbrokers and Stock Exchanges (1931), stated:

"A customer who wishes to repudiate an act of his broker must do so with reasonable promptness. How much time may be taken for this purpose is not established by any fixed rule. It has been held in some cases that the disaffirmance must be made within a reasonable time; in others it must be made promptly; in still others, that it must be made immediately.

It is clear, however, from the decisions that the customer may not delay very long after the wrongful act has been brought to his knowledge."^{5/}

The Plaintiff in Hecht v. Harris, Upham & Co., supra, alleged that the Defendant stock brokerage firm had handled her account in a manner contrary to her instructions and in a manner unsuitable to her needs by, among other things:

(1) selling certain securities which Plaintiff had instructed him not to sell, (2) failing to preserve the investment nature, character and value of her account in accordance with her instructions, (3) purchasing speculative and low grade securities and by selling dividend paying securities, and (4) effecting the purchase and sale of securities and commodities without her knowledge or comprehension as to their significance or suitability. The District Court found that Plaintiff in her conduct was barred by estoppel and waiver from asserting these violations^{6/} noting that estoppel and waiver are defenses to a civil action under the Securities and Exchange Act and that also since there is no applicable federal statute of limitations, the doctrine of laches is also a defense. It should here be noted that in the case at bar the agreement signed by Plaintiff upon opening the account with Defendants states that any objections she has to the manner in which the account is handled will be promptly made in writing to the firm. It is agreed by all parties that no objections to the handling of the account was made in this form.

Four elements must be present to establish the defense of estoppel: (1) the party to be estopped must know the facts; (2) he must intend that his conduct shall be acted on or must so act that the party asserting the estoppel has a right to believe

^{5/} The unauthorized transactions involved in the case at bar occurred between February and December of 1972. Except for the objection made in March of 1972, no other objection had been made at the time the account was closed out in November of 1973.

^{6/} The Court did allow her partial recovery based on her allegation of churning.

it is so intended; (3) the latter must be ignorant of the true facts; and (4) he must rely on the former's conduct to his injury. Hecht v. Harris, Upham & Co., supra.

To invoke laches as a defense there must be (1) a lack of diligence by the party against whom the defense is asserted, and (2) prejudice to the party asserting the defense. Costello v. United States, 365 U.S. 265, 282, 81 S.Ct. 534, 5 L.Ed. 2d 551 (1961).

Plaintiff relies heavily on the fact that she, through her husband, voiced objection to the handling of the account. While it is in dispute whether Mr. Marshak merely called once and objected to a single transaction or whether he made a general objection, there is no dispute that any objection, of whatever type, whether made once or twice, occurred in March of 1972 after which no other complaint was made although Mr. Marshak was in almost daily contact with Defendants. It is equally clear and undisputed that Mr. Marshak at no time indicated to Defendant Sanditen any displeasure with the manner in which he was handling the account. Plaintiff contends that because of the 1972 incident, Defendants were not "ignorant of the true facts" and therefore cannot assert estoppel. However, in light of Mr. Marshak's objection and the fact that while being in daily contact with the Defendants, aware of the subsequent unauthorized transactions, he made no other comment whatsoever of displeasure either to his broker or to the firm, the Court finds that the Defendants did not have knowledge that Plaintiff disapproved of their handling of his account as complained of in this action.

In view of these factors, the Court finds that Plaintiff is estopped from asserting an action for unauthorized trading.

UNSUITABLE INVESTMENTS

The Plaintiff's third "category" of liability is based on the doctrine of "unsuitability" and is grounded in negligence and not fraud. Article III, Sec. 2 of the National Association

of Security Dealers Rules of Fair Practice provides:

"In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable ground for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs."

This is in keeping with the so-called "Know Your Customer" rule of the New York Stock Exchange regarding the duty of the broker to be personally informed as to the essential facts relative to the customer and to the nature of the proposed account.

In this regard, Defendant Sanditen did know the Marshaks personally and on a social basis, and had visited in their home, had been on gambling junkets to Las Vegas with Mr. Marshak, knew the type of job he held, and had, of course, been informed by Mr. Marshak as to how he desired the account to be handled.

As to Plaintiff's other allegations, while Defendants may not have handled the Marshak account in the highest exemplary manner, it cannot be said their conduct constitutes negligence. In addition, for the Marshaks to recover damages for negligence, it would have to be shown that Defendants' negligence was the proximate cause of Plaintiff's loss. This, the evidence fails to disclose.

An examination of the account shows stock market conditions to be the main factor in the substantial loss sustained by Plaintiff. Mr. Marshak testified that the account with the Defendants was opened in 1971 with 1,000 shares of National Service Industries stock to which 3,400 shares of the same stock were added. This stock was the "backbone" of the Marshak account and Mr. Marshak had instructed Defendants that no shares of this stock were to be sold. At trial it was agreed that in 1971 the National Service Industries stock sold for approximately \$28.00 per share; in 1972, for more than \$30.00 a share; however, in November of 1973 when the account was closed, the stock had dropped to \$10.00 or \$11.00

per share. This factor alone accounted for a loss of over \$100,000.00. In addition, when the margin account was originally opened at Blyth Eastman Dillon, the firm loaned the Marshaks \$10,000.00 with the National Service Industries stock as security. When Plaintiff's account at Van Alstyne Associates, Inc., and Schneider Bernet & Hickman were transferred to the Defendants, the accounts transferred were undermargined by \$49,307.00 and Defendants had to pay this amount to the two brokerage firms upon acceptance of the Marshak account.

Losses were also sustained on stock which was sold to meet margin calls in the Marshak account occasioned by the general condition of the stock market itself. A maintenance call, followed by a margin call, is made to the investor whenever the value of the stock he has put up as a margin falls below the required percentage. The investor then is given the option of supplying more capital for the account or selling a portion of his stock to cover the deficit. When the Marshaks received margin calls in their account in 1973, they could supply only an additional \$1,000.00 to meet the calls, and, therefore, directed Defendants to sell the amount of stock required. It is difficult to calculate what portion of the loss sustained in the sale of these stocks is attributable to this "forced sale."

The Courts have long recognized that "the purpose of the Securities Exchange Act is to protect the innocent investor, not one who loses his innocence and then waits to see how his investment turns out before he decides to invoke the provisions of the Act." Royal Air Properties, Inc., v. Smith, 312 F.2d 210 (9th Cir. 1962); Hecht v. Harris, Upham & Co., supra; Merrill Lynch, Pierce, Fenner & Smith, Inc., v. Boccock, supra.

IT IS HEREBY ORDERED ADJUDGED AND DECREED that Defendant is not liable in damages for churning, unauthorized trading or unsuitable investments.

IT IS SO ORDERED this 3rd day of September, 1975.


H. DALE COOK

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

FANNYE RAE MARSHAK

Plaintiff,

vs.

BLYTH EASTMAN DILLON & CO., INC.;
and ROBERT A. SANDITEN

Defendants.

No. 74-C-308

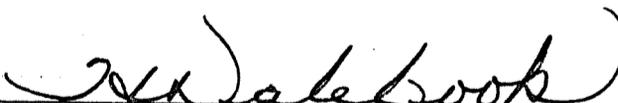
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

This action came on for non-jury trial before the Court, the Honorable H. Dale Cook, District Judge, presiding. The issues having been duly tried and decision having been duly rendered, the following Order is entered:

IT IS ORDERED AND ADJUDGED that the Plaintiff take nothing, that the action be dismissed on the merits, and that the Defendants, Blyth Eastman Dillon & Co., Inc., and Robert A. Sanditen, recover of the Plaintiff, Fannye Rae Marshak, their costs of action.

Dated at Tulsa, Oklahoma, this 3rd day of September, 1975.



H. Dale Cook
United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

SEP 3 1975

Jack C. Silver, Clerk
U.S. DISTRICT COURT

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 134.00 Acres of Land, More)
 or Less, Situate in Osage)
 and Kay Counties, State of)
 Oklahoma, and Osage Tribe of)
 Indians,)
)
 Defendants.)

CIVIL ACTION NO. 74-C-566
Tract No. 2148ME
(All interests in estate
taken)
(Included in D.T. filed in
Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sep.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2148ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$6,030.00 \$6,030.00

Deposited as estimated
compensation ----- \$3,216.00

Disbursed to owner ----- None

Balance due to owner ----- \$6,030.00

Deposit deficiency ----- \$2,814.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,814.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$6,030.00.



UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

United States of America,	)	Jack C. Silver, Clerk
	)	U. S. DISTRICT COURT
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-565
)	
4.75 Acres of Land, More	)	Tracts Nos. 2147ME-1 and
or Less, Situate in Osage	)	2147ME-2 (All
County, State of Oklahoma,	)	interests in estate taken
and Osage Tribe of Indians,)	
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sept.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACTS NOS. 2147ME-1 and 2147ME-2

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 213.75 \$ 213.75

Deposited as estimated
compensation ----- \$ 89.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 213.75

Deposit deficiency ----- \$ 124.75

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 124.75 , and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$213.75.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 31.25 Acres of Land, More)
 or Less, Situate in Osage)
 County, State of Oklahoma,)
 and Osage Tribe of Indians,)
)
 Defendants.)

CIVIL ACTION NO. 74-C-564
Tract No. 2146ME (All
interests in estate taken)
(Included in D.T. filed in
Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ~~August~~^{Sept.}, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2146ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$1,406.25 \$1,406.25

Deposited as estimated
compensation ----- \$ 586.00

Disbursed to owner ----- None

Balance due to owner ----- \$1,406.25

Deposit deficiency ----- \$ 820.25

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 820.25 , and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$1,406.25.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE **F I L E D**
NORTHERN DISTRICT OF OKLAHOMA

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-563
)	
103.35 Acres of Land, More	)	Tract No. 2144ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in estate
and Osage Tribe of Indians,	)	taken)
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sept.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2144ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$4,650.75 \$4,650.75

Deposited as estimated
compensation ----- \$1,867.00

Disbursed to owner ----- None

Balance due to owner ----- \$4,650.75

Deposit deficiency ----- \$2,783.75

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,783.75, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,650.75.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 32.99 Acres of Land, More)
 or Less, Situate in Osage)
 County, State of Oklahoma,)
 and Osage Tribe of Indians,)
)
 Defendants.)

CIVIL ACTION NO. 74-C-562
Tracts Nos. 2143ME-1 and
2143ME-2
(All interests in estate taken
(Included in D.T. filed in
Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sep.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACTS NOS. 2143ME-1 and 2143ME-2

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$1,484.55 \$1,484.55

Deposited as estimated
compensation ----- \$ 619.00

Disbursed to owner ----- None

Balance due to owner ----- \$1,484.55

Deposit deficiency ----- \$ 865.55

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 865.55 , and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$1,484.55.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-561
)	
128.90 Acres of Land, More	)	Tract No. 2141ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in estate taken
and Osage Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sept.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2141ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$5,800.50 \$5,800.50

Deposited as estimated
compensation ----- \$2,655.00

Disbursed to owner ----- None

Balance due to owner ----- \$5,800.50

Deposit deficiency ----- \$3,145.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$3,145.50, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$5,800.50.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-560
)	
90.50 Acres of Land, More	)	Tract No. 2139ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in estate taker
and Osage Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd ^{Sep} day of August, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2139ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 4,072.50 \$ 4,072.50

Deposited as estimated
compensation ----- \$ 1,942.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 4,072.50

Deposit deficiency ----- \$ 2,130.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 2,130.50, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,072.50.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 85.50 Acres of Land, More)
 or Less, Situate in Osage)
 County, State of Oklahoma,)
)
 Defendants.)

CIVIL ACTION NO. 74-C-559
Tract No. 2137ME
(All interests in estate taken
(Included in D.T. filed in
Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sep.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2137ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 3,847.50 \$ 3,847.50

Deposited as estimated
compensation ----- \$ 1,932.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 3,847.50

Deposit deficiency ----- \$ 1,915.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$1,915.50, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$3,847.50.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

SEP 3 1975

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-558
)	
72.00 Acres of Land, More	)	Tract No. 2136ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in Estate Taken
and Osage Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sept.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2136ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 3,240.00 \$ 3,240.00

Deposited as estimated
compensation ----- \$ 1,608.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 3,240.00

Deposit deficiency ----- \$ 1,632.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$1,632.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$3,240.00.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 116.75 Acres of Land, More)
 or Less, Situate in Osage)
 County, State of Oklahoma,)
 and Osage Tribe of Indians,)
)
 Defendants.)

CIVIL ACTION NO. 74-C-557
Tract No. 2134ME
(All interests in estate
taken)
(Included in D.T. filed in
Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sept}~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

TRACT NO. 2134ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$ 5,253.75	\$ 5,253.75
Deposited as estimated compensation -----	<u>\$ 2,802.00</u>	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$ 5,253.75
Deposit deficiency -----	\$ 2,451.75	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,451.75, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$5,253.75.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
) Plaintiff,)
)
 vs.) CIVIL ACTION NO. 74-C-556
)
 22.85 Acres of Land, More or) Tracts Nos. 2133ME-1, 2133ME-2
 Less, Situate in Osage County,) 2133ME-3 and 2133ME-4
 State of Oklahoma, and Osage)
 Tribe of Indians,) (All interests in estate taken
)
) (Included in D.T. filed in
 Defendants.) Master File 317-496

J U D G M E N T

1.

NOW, on this 2nd day of ~~August~~^{Sep}, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

74-C-556

TRACTS NOS. 2133ME-1, 2133ME-2, 2133ME-3 & 2133ME-4

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$1,028.25	\$1,028.25
Deposited as estimated compensation -----	\$ 462.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$1,028.25
Deposit deficiency -----	\$ 566.25	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 566.25 , and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$1,028.25.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-555
)	
13.40 Acres of Land, More or	)	Tracts Nos. 2132ME-1,
Less, Situate in Osage County,	)	2132ME-2 and 2132ME-3
County, State of Oklahoma,)	
and Osage Tribe of Indians,	)	(All interests in estate taker
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ~~August~~ ^{SEP.}, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACTS NOS. 2132ME-1, 2132ME-2 and 2132ME-3

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 603.00 \$ 603.00

Deposited as estimated
compensation ----- \$ 251.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 603.00

Deposit deficiency ----- \$ 352.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 352.00 , and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$603.00.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 148.00 Acres of Land, More or)
 Less, Situate in Osage County,)
 State of Oklahoma, and Osage)
 Tribe of Indians,)
)
 Defendants.)

CIVIL ACTION NO. 74-C-554

Tract No. 2131ME

(All interests in estate taken

(Included in D.T. filed in
Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ~~August~~ ^{Sept}, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2131ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$ 6,660.00	\$ 6,660.00
Deposited as estimated compensation -----	\$ 3,069.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$ 6,660.00
Deposit deficiency -----	\$ 3,591.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 3,591.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$6,660.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

United States of America,)
)
) Plaintiff,)
)
vs.)
)
113.50 Acres of Land, More or)
Less, Situate in Osage County,)
State of Oklahoma, and Osage)
Tribe of Indians,)
)
) Defendants.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 74-C-553

Tract No. 2129ME

(All interests in estate taken

(Included in D.T. filed in
Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ~~August~~^{Sept}, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2129ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$5,107.50 \$5,107.50

Deposited as estimated
compensation ----- \$2,145.00

Disbursed to owner ----- None

Balance due to owner ----- \$5,107.50

Deposit deficiency ----- \$2,962.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,962.50, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$5,107.50.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

SEP 3 1975
UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-552
)	
10.00 Acres of Land, More or	)	Tract No. 2128ME
Less, Situate in Osage County,)	
State of Oklahoma, and Osage	)	(All interests in estate
Tribe of Indians,	)	taken)
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sep.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2128ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 450.00 \$ 450.00

Deposited as estimated
compensation ----- \$ 187.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 450.00

Deposit deficiency ----- \$ 263.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$263.00 , and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$450.00.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 3 1975

Jack C. Silver, Clerk
U.S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-551
)	
8.50 Acres of Land, More or	)	Tract No. 2127ME
Less, Situate in Osage County,)	
State of Oklahoma, and Osage	)	(All interests in estate
Tribe of Indians,	)	taken)
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sep} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2127ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 382.50 \$ 382.50

Deposited as estimated
compensation ----- \$ 159.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 382.50

Deposit deficiency ----- \$ 223.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 223.50 , and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$382.50.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-550
)	
1.50 Acres of Land, More or	)	Tract No. 2126ME
Less, Situate in Osage County,)	
State of Oklahoma, and Osage	)	(All interests in estate
Tribe of Indians,	)	taken)
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File 317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{SEP.} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2126ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 67.50 \$ 67.50

Deposited as estimated
compensation ----- \$ 28.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 67.50

Deposit deficiency ----- \$ 39.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 39.50 , and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$67.50.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-545
)	
21.75 Acres of Land, More or	)	Tract No. 2119ME (All
Less, Situate in Osage County,	)	Interests in Estate Taker
State of Oklahoma, and Osage)	
Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sep}~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2119ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 978.75 \$ 978.75

Deposited as estimated
compensation ----- \$ 408.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 978.75

Deposit deficiency ----- \$ 570.75

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 570.75 , and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$978.75.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-583
)	
88.00 Acres of Land, More	)	Tract No. 2324ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in estate
and Osage Tribe of Indians,	)	taken)
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2324ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$3,960.00 \$3,960.00

Deposited as estimated
compensation ----- \$1,100.00

Disbursed to owner ----- None

Balance due to owner ----- \$3,960.00

Deposit deficiency ----- \$2,860.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,860.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$3,960.00.



UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-582
)	
4.35 Acres of Land, More	)	Tracts Nos. 2321ME-1 and
or Less, Situate in Osage	)	2321ME-2
County, State of Oklahoma,	)	(All interests in estate
and Osage Tribe of Indians,	)	taken)
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 3rd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACTS NOS. 2321ME-1 and 2321ME-2

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 195.75 \$ 195.75

Deposited as estimated
compensation ----- \$ 82.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 195.75

Deposit deficiency ----- \$ 113.75

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 113.75 , and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$ 195.75.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

SEP 3 1975

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA
JAMES C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-581
)	
92.00 Acres of Land, More	)	Tract No. 2319ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in estate
and Osage Tribe of Indians,	)	taken)
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 3rd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2319ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$4,140.00 \$4,140.00

Deposited as estimated
compensation ----- \$1,725.00

Disbursed to owner ----- None

Balance due to owner ----- \$4,140.00

Deposit deficiency ----- \$2,415.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,415.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,140.00.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

UNITED STATES DISTRICT COURT FOR THE SEP 3 1975
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-580
)	
71.30 Acres of Land, More	)	Tracts Nos. 2318ME-1 and
or Less, Situate in Osage	)	2318ME-2 (All
County, State of Oklahoma,	)	interests in estate taken)
and Osage Tribe of Indians,)	
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACTS NOS. 2318ME-1 and 2318ME-2

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$3,208.50 \$3,208.50

Deposited as estimated
compensation ----- \$1,336.00

Disbursed to owner ----- None

Balance due to owner ----- \$3,208.50

Deposit deficiency ----- \$1,872.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$1,872.50, and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$3,208.50.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

SEP 3 1975

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-579
)	
160.00 Acres of Land, More	)	Tract No. 2317ME (All
or Less, Situate in Osage	)	interests in estate taken)
County, State of Oklahoma,)	
and Osage Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2317ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$7,200.00 \$7,200.00

Deposited as estimated
compensation ----- \$2,906.00

Disbursed to owner ----- None

Balance due to owner ----- \$7,200.00

Deposit deficiency ----- \$4,294.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$4,294.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$7,200.00.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-578
)	
140.00 Acres of Land, More	)	Tract No. 2316ME (All
or Less, Situate in Osage	)	interests in estate taken)
County, State of Oklahoma,)	
and Osage Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2316ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 6,300.00 \$6,300.00

Deposited as estimated
compensation ----- \$ 2,531.00

Disbursed to owner ----- None

Balance due to owner ----- \$6,300.00

Deposit deficiency ----- \$ 3,769.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$3,769.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$6,300.00.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-577
)	
55.00 Acres of Land, More	)	Tract No. 2314ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in estate
and Osage Tribe of Indians,	)	taken)
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2314ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$2,475.00 \$2,475.00

Deposited as estimated
compensation ----- \$1,031.00

Disbursed to owner ----- None

Balance due to owner ----- \$2,475.00

Deposit deficiency ----- \$1,444.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$1,444.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$2,475.00.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. HARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-576
)	
95.00 Acres of Land, More	)	Tract No. 2313ME (All
or Less, Situate in Osage	)	interests in estate taken)
County, State of Oklahoma,)	
and Osage Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

74-C-576

TRACT NO. 2313ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$4,275.00 \$4,275.00

Deposited as estimated
compensation ----- \$1,781.00

Disbursed to owner ----- None

Balance due to owner ----- \$4,275.00

Deposit deficiency ----- \$2,494.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,494.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,275.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

SEP 3 1975

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-575
)	
93.25 Acres of Land, More	)	Tract No. 2312ME
or Less, Situate in Osage)	
County, State of Oklahoma,	)	(All interests in estate
and Osage Tribe of Indians,	)	taken)
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2312ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$4,196.25 \$4,196.25

Deposited as estimated
compensation ----- \$1,748.00

Disbursed to owner ----- None

Balance due to owner ----- \$4,196.25

Deposit deficiency ----- \$2,448.25

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$2,448.25, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,196.25.

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-574
)	
14.00 Acres of Land, More	)	Tracts Nos. 2311ME-1 and
or Less, Situate in Osage	)	2311ME-2
County, State of Oklahoma,	)	(All interests in estate
and Osage Tribe of Indians,	)	taken)
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACTS NOS. 2311ME-1 and 2311ME-2

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 630.00 \$ 630.00

Deposited as estimated
compensation ----- \$ 262.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 630.00

Deposit deficiency ----- \$ 368.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 368.00 , and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$ 630.00.



UNITED STATES DISTRICT JUDGE

APPROVED:

12/ Hubert A. Marlow
HUBERT A. MARLOW
Assistant U. S. Attorney

E I L E D

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SEP 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-573
)	
10.00 Acres of Land, More	)	Tract No. 2309ME (All
or Less, Situate in Osage	)	interests in estate taken)
County, State of Oklahoma,)	
and Osage Tribe of Indians,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of September, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACT NO. 2309ME

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 450.00 \$ 450.00

Deposited as estimated
compensation ----- \$ 187.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 450.00

Deposit deficiency ----- \$ 263.00

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 263.00 , and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$450.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 3 1975

Jack C. Silver, Clerk
U.S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 74-C-572
)	
29.10 Acres of Land, More	)	Tracts Nos. 2308ME-1 and
or Less, Situate in Osage	)	2308ME-2 (All interests
County, State of Oklahoma,	)	in estate taken)
and Osage Tribe of Indians,)	
)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 2nd day of ^{Sep} ~~August~~, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies only to the estate condemned in the tract, or tracts, listed in the caption hereof, as such estate and tract, or tracts, are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the estate described in said Complaint. Pursuant thereto, on December 13, 1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tract. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject property as follows:

TRACTS NOS. 2308ME-1 and 2308ME-2

OWNER: Osage Tribe of Indians

Award of just compensation
pursuant to Stipulation ----- \$ 1,309.50 \$ 1,309.50

Deposited as estimated
compensation ----- \$ 545.00

Disbursed to owner ----- None

Balance due to owner ----- \$ 1,309.50

Deposit deficiency ----- \$ 764.50

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property, the deficiency sum of \$ 764.50 , and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$ 1,309.50.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney