

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

- WHEREAS, the Tribal Council, pursuant to a previous resolution, authorized Attorney at Law, Thomas R. Hoecker, a specialist in the area of pension law, to review the Tribe's pension plan and to advise the Tribe regarding any potential liability, malpractice or violations of federal pension law for the purpose of insuring the financial, professional and legal integrity of the plan for the protection of tribal employees; and
- WHEREAS, Mr. Hoecker has submitted a preliminary report on the Tribe's pension program September 12, 1990 which has been reviewed by the Tribal Attorney's office and the Office of the Tribal Chairman; and
- WHEREAS, said report was of a preliminary nature only and has cautioned that additional factual investigation and legal analysis will be necessary before Mr. Hoecker can provide the Tribe with any definitive recommendations concerning the legality or appropriateness of the disposition of the Old Plan, the investment programs implemented for the new plan or the old plan, or the advice given to the Tribe by its prior advisors; and
- WHEREAS, on September 20, 1990, Mr Hoecker proposed to the Tribe that in order to clear all past problems and restore the integrity of the benefit program, the following work will be necessary:
- a) Analyze proper disposition of old plan.
 - b) Redraft old plan, if the Tribe decides to requalify it.
 - c) Redraft new plan.
 - d) Draft Rabbi Trust.
 - e) Analyze advantages of a qualified plan and explain same to tribal officials.
 - f) Draft the Qualified Plan.
 - g) Negotiate with Mass Mutual.
 - h) Negotiate with Steve Kaiser, prior pension Attorney/Administrator for the Tribe; and
- WHEREAS, Mr. Hoecker further advises that once it is decided how to deal with the old plan, he will be in a position to give the Tribe a fairly solid estimate for the drafting of various documents in accordance with federal law and tribal goals; and
- WHEREAS, in order to proceed, Mr. Hoecker's firm, Snell and Wilmer, requires an additional retainer of \$25,000,

paid in two installments of \$12,500 each, against which Mr. Hoecker will bill on an hourly basis, and will provide the Tribe with a monthly summary of legal services performed against said retainer; and

WHEREAS, Mr. Hoecker anticipates that he and his associates should be able to resolve the pension-related issues without exhausting the retainer and may be able to resolve the Tribe's dispute with Mass Mutual or prior administrators with said retainer, although said outcome is dependent on the position that Mass Mutual and the Tribe's former administrators may take in respect to tribal claims; and

WHEREAS, the Tribal Attorney advises that although there is no guarantee, the Tribe may be able to recover its attorney fees expended for Mr. Hoecker's legal work but that in any event, he recommends that Mr. Hoecker be retained in order to insure that the Tribe's pension plan meets all legal requirements and fulfills its purpose of providing security to tribal employees.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the payment of a \$25,000 retainer in installments of \$12,500 each to the law firm of Snell and Wilmer, for legal services to be provided by Thomas R. Hoecker, as outlined in this resolution.

BE IT FURTHER RESOLVED by the Tribal Council that the retainer of the law firm of Snell and Wilmer and Thomas R. Hoecker, a specialist in pension plan law, is authorized by paragraph three of the General Counsel Contract between the White Mountain Apache Tribe and Robert C. Brauchli.

The foregoing resolution was on October 11, 1990, duly adopted by a vote of eight for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (b) (d) (u) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

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