



INTERIOR BOARD OF INDIAN APPEALS

James H. Cook v. Acting Anadarko Area Director, Bureau of Indian Affairs

28 IBIA 115 (07/19/1995)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

JAMES H. COOK,
Appellant

v.

ACTING ANADARKO AREA
DIRECTOR, BUREAU OF
INDIAN AFFAIRS,
Appellee

: Order Affirming Decision
:
:
:
: Docket No. IBIA 95-53-A
:
:
: July 19, 1995

This is an appeal from an October 19, 1994, decision of the Acting Anadarko Area Director, Bureau of Indian Affairs, denying an application for an Indian Business Development Program (IBDP) grant in the amount of \$20,000.

Appellant applied for the grant on October 3, 1994. He also sought a loan in the amount of \$60,000 from the First Oklahoma Bank, which wrote to BIA on October 12, 1994, about the matter. ^{1/} In his grant application, appellant stated that he operated an accounting service and that he sought funds to "[p]urchase facility and equipment, hire additional personnel to meet current work load and allow for expansion to the local and regional areas for accounting and tax services" (Grant Application at 1). At page 5 of the business plan submitted with his application, appellant indicated that he planned to purchase and renovate a building at 2220 North Kickapoo, Shawnee, Oklahoma, into which he intended to relocate his business. At page 2 of the business plan, he stated that he had signed a purchase contract for the property, in the amount of \$30,000, on July 25, 1994. He calculated his total projected cost for purchase and renovation of the building at \$50,000. In addition, he proposed to purchase a pickup truck for \$22,500 and to expend \$7,500 on other equipment and operating expenses.

The Area Director's decision indicates that, for a number of reasons, he believed appellant did not need an IBDP grant. ^{2/} He noted, for instance, that appellant's financial statement showed his net worth to be \$255,122. With respect to the building at 2220 North Kickapoo, the Area Director stated:

According to records in the County Court House, Pottawatomie County, Shawnee, Oklahoma the property at 2220 N. Kickapoo, Shawnee, OK (Sunset Park Addition, Block 2, Lot 5) was purchased

^{1/} Although the bank's letter is not entirely clear, it might be read to suggest that the bank's willingness to make the loan to appellant depended upon BIA's willingness to award a grant.

^{2/} 25 U.S. C. § 1522 (b) provides: "A grant may be made only to an applicant who, in the opinion of the Secretary, is unable to obtain adequate financing for its economic enterprise from other sources."

by Mr. and Mrs. James Cook on August 16, 1994, and a mortgage is held by The First Oklahoma Bank. Additionally, a visual review from the street reveals that remodeling and renovation of the property located at 2220 N. Kickapoo for conversion to a commercial establishment is well under way and has been for several weeks.

It is apparent that the loan has been made, the property purchased and improvements commenced. Therefore, it is obvious that the applicant was and is able to secure financing without assistance of a grant from the IBDP for expansion of his accounting business.

(Area Director's Oct. 19, 1994, Decision at 3).

In his notice of appeal, appellant concedes that he purchased the building in August 1994. He states that he was required to complete the purchase by August 31, 1994, because his purchase contract expired on that date. He states further:

Due to the nature of my business as an accounting and tax service, the timing of the project had to be completed prior to January 1, 1994 [sic - probably should be 1995]. I invested my labor in the project in order to get the project started. Due to the volume of the construction industry at this time it was necessary for me to start this project as soon as possible. The loan has not been obtained as of this date as indicated in the letter of denial.

(Notice of Appeal at 2).

If nothing else, appellant's concessions in this appeal demonstrate that his grant application was less than forthright. The application, although dated October 3, 1994, fails to disclose that, on August 16, 1994, appellant had purchased and obtained a mortgage on the same property for which his grant application sought financing. By describing the property as "the land and building to be purchased" (Business Plan at 5, emphasis added) and by acknowledging only the July 25, 1994, purchase contract, the application is particularly misleading on this point. The grant application also fails to disclose that appellant had begun renovations on the building, even though the application sought funding for those very renovations. ^{3/}

^{3/} Appellant signed an "Applicant Certification" when he applied for the grant, stating:

"I certify that all of the answers given above and in the attached business plan, financial assistance applications, and supporting documents are true, complete and correct to the best of my knowledge.

"I understand that any intentional false statement in this application, or willful misrepresentation relative thereto, is a violation of the law punishable by a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both (18 U.S.C. 1001)."

The Board finds that the Area Director's denial of appellant's grant application would have been justified on the basis of appellant's misrepresentations alone. In any event, appellant has failed to show error in the Area Director's conclusion that he did not need an IBDP grant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's October 19, 1994, decision is affirmed. 4/

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge

4/ The record in this appeal includes a CDIB (certificate of degree of Indian blood) card issued by a BIA official in 1981, showing that appellant has 1/128 Indian blood of the Choctaw Tribe. There is no evidence in the record that appellant is a member of an Indian tribe. Under 25 CFR 286.1, an individual Indian applicant for an IBDP grant must be a member of an Indian tribe.