

BEFORE THE INDIAN CLAIMS COMMISSION

THE PONCA TRIBE OF OKLAHOMA,)	
ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 323
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEYS' FEE

HAVING CONSIDERED the application for allowance of attorneys' fee filed in this docket on July 16, 1973, for the law firm of Sonnenschein Levinson Carlin Nath & Rosenthal, attorneys for the above-named plaintiffs, by Edwin A. Rothschild, Esquire, a member of said firm and attorney of record for the said plaintiffs; the defendant's response to the application, filed on September 7, 1973; the contracts under which the attorneys served the Ponca Tribe of Oklahoma; and the remainder of the record herein, the Commission finds as follows:

1. Award. On August 23, 1972, the Commission entered a final award on remand herein which ordered "that the plaintiff tribe have and recover from the defendant the sum of \$1,004,589.49, plus an additional amount measured at interest of 5% on the principal sum of \$174,327.06 from June 30, 1972, until the date of payment of the principal sum" (28 Ind. Cl. Comm. 335, 350-351). Funds to satisfy the final award were appropriated by the Act of July 1, 1973 (Public Law 93-50, 87 Stat. 99). Payment of the award was made on July 5, 1973, in the amount of \$1,013,425.24, consisting of the sum of \$1,004,589.49 stated in the final award and \$8,835.75, the amount of interest computed at 5% per annum on the principal sum of \$174,327.06 from June 30, 1972, through July 5, 1973.

2. Attorney Contracts. The representation of the plaintiffs in this case was initially under contract No. I-1-ind. 42433 that the Ponca Tribe of Oklahoma entered into on May 5, 1950, with the law firm of Sonnenschein Berkson Lautmann Levinson & Morse (now Sonnenschein Levinson Carlin Nath & Rosenthal). This contract was approved on November 8, 1950, and had an initial term of ten years that commenced on that date. An extension of the contract for an additional period of five years that began on November 8, 1960, was approved on October 21, 1959. On September 16, 1965, the Ponca Tribe of Oklahoma entered into a supplemental employment agreement with the law firm of Sonnenschein Levinson Carlin Nath & Rosenthal under which the said firm continued to serve as attorneys for the tribe. This agreement,

assigned contract No. 14-0200-2000, was approved on October 12, 1965, and had an initial term of five years that began on November 9, 1965. An extension of the agreement from November 8, 1970, through the earlier of November 8, 1973, or the date of final disposition of all claims of the tribe then pending before the Indian Claims Commission was approved on May 6, 1970.

3. Compensation Under the Contracts and Requested Fee. The aforementioned contract and supplemental agreement each provide, among other things, that compensation to the attorneys for services rendered is to be wholly contingent upon a recovery for the tribe and shall be 10 percent of the amount recovered through their efforts for the tribe. The attorneys' application requests the allowance of \$101,342.52, an amount equal to 10 percent of the sum paid in satisfaction of the final award on remand in this case, as compensation for all services rendered in connection with that award.

4. Response of the Defendant. The defendant's response to the application for allowance of attorneys' fee transmitted a copy of a letter dated August 14, 1973, from the Acting Associate Solicitor, Indian Affairs, United States Department of the Interior, and an accompanying memorandum dated August 7, 1973, signed by Mr. Newton W. Edwards for the Assistant to the Secretary of the Interior, and took no position as to the fee that should be awarded. The letter from the Acting Associate Solicitor reads in part as follows:

Enclosed are two copies of a memorandum dated August 7, 1973, from Mr. Newton W. Edwards, who signed it for the Assistant to the Secretary of the Interior, which relates to the history of the applicable tribal claims attorney contracts and advises of their compensation provisions. As the fees requested are in the amount specifically provided for by the contracts, we have no objection to their allowance.

5. Notice to the Tribe. A notice of the filing of the application for allowance of attorneys' fee, together with a copy of the application, was mailed by the Deputy Clerk of the Commission on July 17, 1973, to the Chairman of the Ponca Tribe of Oklahoma. The notice asked for any comments or information the tribe had that the Commission should consider before acting on the application. No response to the notice was received by the Commission.

6. Attorneys' Services. Pursuant to their employment agreements with the plaintiff tribe, the attorneys investigated, filed and prosecuted the claim herein on which the Ponca Tribe of Oklahoma received an award amounting to \$1,013,425.24. The attorneys have rendered valuable services for their Indian clients and are entitled under the terms of their contracts

with the Ponca Tribe of Oklahoma to an award of an attorneys' fee for services rendered in this case in the requested sum of \$101,342.52.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on August 23, 1972, in favor of the Ponca Tribe of Oklahoma, there shall be disbursed to the law firm of Sonnenschein Levinson Carlin Nath & Rosenthal of Chicago, Illinois, the sum of \$101,342.52 as payment in full for all services rendered in the prosecution of this case.

Dated at Washington, D. C., this 12th day of September 1973.

Jerome K. Kuykendall
Jerome K. Kuykendall, Chairman

John T. Vance
John T. Vance, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner

Margaret H. Pierce
Margaret H. Pierce, Commissioner

Brantley Blue
Brantley Blue, Commissioner