

of expense incurred in Docket 15-J. The applicants state that the Docket 15-J expenses are included herein because they were incurred subsequent to the preparation and submission of the application for reimbursement of expenses submitted relative to Docket 15-J.

3. Attorneys' contracts. Several contracts have existed between the plaintiff, the Prairie Band of Potawatomi Indians, and the various attorney groups representing them. All such contracts were regular and of conceded validity. The contract existing at the time of the final award with Robert Stone Johnson and Beryl R. Johnson, Symbol 14-20-0200 No. 1856, provided, inter alia, that the attorneys ". . . shall also be allowed and reimbursed from the amount of any judgment received such actual expenses incurred by them as may be fixed by the court, tribunal, or commission . . ."

4. Notification. By letters of May 16, 1974, the Commission notified all parties of the filing of the application. No reply has been received from the representative of the Prairie Band of the Potawatomi Tribe. The Department of Justice did not take a position regarding the amount of expenses which should be awarded pursuant to the application, but in response to the Commission's notification, transmitted correspondence from the Office of the Solicitor, Department of the Interior, including a memorandum to the Solicitor from the Bureau of Indian Affairs. In the memorandum, the Solicitor was informed that most of the expense items incurred during 1960 and 1961 were in connection with the petition filed by the claims counsel of the Prairie Band of the Potawatomi Tribe in Docket 15-J, and that such expenses were for the benefit of the attorneys and not expenses properly chargeable to the Indians. Also questioned by the Bureau of Indian Affairs were the expenses incurred after the award became final, the expenses in storage of records, and items identified in the application as "Bank Service Charges."

5. Explanation and withdrawal of charges. By a letter dated July 19, 1974, replying to the Bureau of Indian Affairs memorandum, the applicant observed the item of \$17.05 was expended for storage boxes for storage and retention of pleadings and exhibits used in this docket which he was obligated to turn over to his client at the termination of litigation. With reference to the "Bank Service Charge," the applicant states the expense resulted from the necessity of placing tribal money in a separate account to avoid the comingling of funds.

The applicant requested in the letter of July 19, 1974, that those expense items be withdrawn that were related to the Docket 15-J claim, or that were incurred after the award in the instant dockets became final.

6. Determination of expenses. The attorneys' contract with the plaintiff and Section 15 of the Indian Claims Commission Act (60 Stat. 1049) provide for the reimbursement of attorneys for actual, reasonable expenses incurred in the prosecution of this claim. The Commission, after examination of the vouchers and other documentation relative to the actual expenditures made by the attorneys during the conduct of the present litigation, concludes that the items of expenses should be accepted according to the itemization marked "Exhibit A" and made a part of the application, with the exception of the following items:

a. The expenses claimed for the year 1960, in the amount of \$513.86, and the year 1961, in the amount of \$24.00. The evidence shows many items of expense claimed for the years 1960 and 1961 were expenses incurred in Docket 15-J. In the absence of substantiating evidence as to which, if any, of the expenses were incurred in connection with Docket 15-K, the Commission concludes that all such expenses were incurred in the prosecution of the claim in Docket 15-J. Applicants are not entitled to reimbursement for those expenses incurred in Docket 15-J after the final award was entered in that docket.

b. The items of expense totaling \$17.05 incurred December 16, 1963, for the reason that the storage of records, such as pleadings and exhibits, is an expense occurring in the normal course of business of an attorney.

c. So much of the item of \$6.28 appearing on the invoice of January 1, 1969, that exceeds the amount of \$2.98, for the reason that the notation appearing on said invoice shows that \$3.30 of the amount claimed is allotable to Docket 15-C.

d. The items delineated as "Bank Service Charge," amounting to \$17.91, for the reason that an attorney has an independent obligation not to commingle funds. The expense of maintaining separate bank accounts was for the benefit of the attorney in discharge of this obligation and not for the purpose of benefiting the plaintiffs.

e. The items of expenses incurred subsequent to January 3, 1974, in the amount of \$27.65, for the reason that the expenses were incurred after the award had been made final.

7. Conclusion. After deducting the rejected expenses of \$603.77 from the total of \$3,392.26, the amount claimed, we conclude that the sum of \$2,788.49 is reasonable and proper for reimbursement.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on April 25, 1973, there shall be disbursed to Robert Stone Johnson and Beryl R. Johnson the sum of \$2,788.49 as reimbursement in full for their expenditures made in the prosecution of this docket.

Dated at Washington, D. C., this 14th day of August 1974.

Jerome K. Kuykendall
Jerome K. Kuykendall, Chairman

John F. Vance
John F. Vance, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner

Margaret H. Pierce
Margaret H. Pierce, Commissioner

Brantley Blue
Brantley Blue, Commissioner