

BEFORE THE INDIAN CLAIMS COMMISSION

CITIZEN BAND OF POTAWATOMI INDIANS)	Docket No. 146
OF OKLAHOMA, et al.,)	
)	(Consolidated with Docket
Plaintiff,)	Nos. 15-M and 29-K)
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING EXPENSES INCURRED BY ATTORNEYS FOR THE
CITIZEN BAND OF POTAWATOMI INDIANS OF OKLAHOMA

HAVING CONSIDERED the application for reimbursement of attorneys' expenses filed on June 20, 1974, and the supplements thereto filed on July 31, 1974, September 30, 1974, and October 24, 1974, by Jack Joseph one of the contract attorneys on behalf of Louis L. Rochmes, attorney of record in this docket; the expense schedules, vouchers, and other supporting documentation; the response to the application filed on September 30, 1974, and March 19, 1975, by the United States Department of Justice; and the contracts under which counsel prosecuted this claim, the Commission finds as follows:

1. Award. On April 19, 1974, the Commission entered a final award in favor of the plaintiff tribe (Citizen Band) and other plaintiffs in this consolidated case in the amount of \$2,296,870.70 "on behalf of the Potawatomi Tribe or Nation" (34 Ind. Cl. Comm. 1). Funds to satisfy the award were appropriated by P. L. 93-554, approved December 27, 1974.

2. Attorneys' Contracts. (a) On April 17, 1948, the plaintiff tribe entered into contract No. I-1-ind. 42065 with the law firm of Blake Voorhees & Stewart to New York City and the law firm of Adams Moses & Culver of Chicago. This contract was approved on August 4, 1948, for a period of ten years. An amendment approved on September 28, 1956, provided that reimbursement of reasonable expenses shall be allowed counsel pursuant to the provisions of section 15 of the Indian Claims Commission Act (60 Stat. 1049). A further extension of this contract for five years from August 4, 1958, was approved on March 17, 1959. The association of Louis L. Rochmes of Washington, D. C., was approved on May 3, 1963.

(b) The current contract No. 14-20-0200-1837, dated July 27, 1963, was approved on August 28, 1963. This contract supplements and extends the terms of contract No. 42065 which expired on August 4, 1963.

on December 17, 1968, approval was granted to extend the contract until August 5, 1978.

(c) By approval letter of the Department of the Interior dated January 7, 1966, Mr. Louis L. Rochmes was made a party to contract No. 1837. An amendment approved on February 7, 1973, made Mr. Jack Joseph an additional party to said contract.

3. Expenses Application. The applications filed herein seek reimbursement of expenses incurred in the prosecution of this claim in the amount of \$16,503.92 as follows:

(a) \$25.40. Expenses in the amount of \$25.40 were incurred by Blake, Voorhees & Stewart. Giddings Howd (deceased) was the last active attorney in that firm, and his executor, the Bank of New York, succeeds him in liquidating the partnership assets.

(b) \$7,220.78. Expenses totalling \$7,220.78 were incurred by Howard Moses and Charles G. Culver, two partners in the firm of Adams, Moses, & Culver. Mr. Moses and Mr. Culver are now deceased. According to the petition and supporting affidavit, their estates have been reimbursed that amount by the firm of Joseph & Friedman and by Louis L. Rochmes. Accordingly, this sum is now claimed on behalf of Mr. Rochmes and the firm of Joseph & Friedman. Included in the total of these expenses is the amount of \$3,984.66, which amount is the portion of the Citizen Band's share of the compensation and expenses already paid to expert appraisers employed jointly by counsel in this case and in Dockets 15-M and 40-K.

(c) \$9,257.74. This sum represents the Citizen Band's share of the balance to be paid by the petitioning attorneys to the Estate of J. W. Trygg, deceased, one of the expert witnesses in the case. The records and supporting data with respect to the amounts owed Mr. Trygg have been filed in connection with the expense applications in Dockets 15-M and 40-K. In its comments respecting the application and evidence filed in Docket 40-K, the Department of the Interior stated on June 14, 1974, that a satisfactory audit was made of the J. W. Trygg expense accounts, finding such expenses adequately supported by vouchers and receipts. To the extent that all such records relating to J. W. Trygg are relevant in this case, they are herewith incorporated by reference. With regard to the supplemental expense statement of October 24, 1974, consisting of a further explanation of this item, the Department of the Interior, on February 28, 1975, indicated its satisfaction and approval of the method by which the joint expert witnesses expenses were charged and shared in this docket and Dockets 15-M and 40-K.

4. Notification. Pursuant to Rule 34b(c) of our General Rules of Procedure, (25 C.F.R. 503.34b(c)), the Clerk of the Commission timely notified the appropriate parties including the tribal client (Citizen Band) and the

United States Departments of Justice and Interior respecting the filing of the application and its supplements. The tribal client has filed no response to date. With respect to the main applications of June 20, 1974, and July 31, 1974, the Department of Justice filed its response on September 30, 1974. That response included a copy of an examination and comments respecting the application made by the Acting Deputy Commissioner of Indian Affairs on September 4, 1974. In its examination of the applications, the Department of the Interior concluded that with one exception, the categories of expenses claimed are adequately documented and appear reasonable and proper for reimbursement. The noted exception is discussed in finding 5, infra. The Department of Justice has agreed with the conclusions of the Department of Interior.

With respect to the supplements filed on September 30, 1974, and October 24, 1974, the Department of Justice filed a response dated March 19, 1975. That response included a copy of the comments made by the Department of the Interior which supplemented the comments of September 4, 1974. The Department of Interior's examination states that the Department is satisfied of the reasonableness of the division and allocation of the expert witness expenses in this docket (as noted in finding 3(c) supra). The Department of Interior also found the expenses claimed in the supplemental application of September 30, 1974, to be reasonable and proper for reimbursement. The Department of Justice took no position in the matter respecting these supplements.

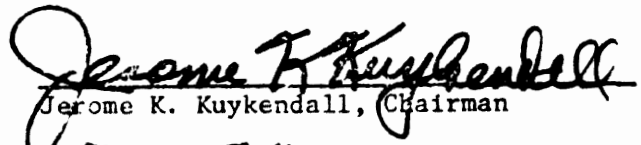
5. Determination of Expenses. Section 15 of the Indian Claims Commission Act (60 Stat. 1049) provides for the reimbursement to attorneys for actual, reasonable expenses incurred in the prosecution of the claim. After an examination of the application, the supporting documentation, pertinent documents filed in Dockets 15-M and 40-K relating to the expert witnesses, and the entire record of expenditures incurred by the attorneys in the prosecution of the claim, the Commission concludes that the claimed items of expenses are reasonable and proper expenses of litigation and should be allowed with the exception of \$1.00 (Item 15 of the application) covering flight insurance. This item is for the personal benefit of the individual attorney and is not proper for reimbursement.

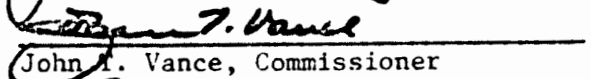
6. Conclusion. On the basis of the foregoing findings, and after deducting the disallowed expenses of \$1.00 from the total of \$16,503.92, the amount claimed, the Commission concludes that the sum of \$16,502.92 is reasonable and proper for reimbursement.

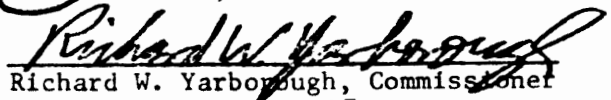
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on April 19, 1974, there shall be disbursed to Louis L. Rochmes, attorney of record, the sum of \$16,502.92 as reimbursement in full for expenditures made in the prosecution of the claim

under Docket 146, said sum to be distributed by Louis L. Rochmes to all parties having an interest in this application.

Dated at Washington, D. C., this 27th day of March, 1975


Jerome K. Kuykendall, Chairman


John A. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner