

BEFORE THE INDIAN CLAIMS COMMISSION

THE SENECA NATION OF INDIANS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 342-G
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING ATTORNEYS' FEES

HAVING CONSIDERED the petition for allowance of attorneys' fees filed on February 23, 1977, by Paul G. Reilly, Esquire, attorney of record for the above-named plaintiff in Docket 342-G, on behalf of the law firm of Earle and Reilly (now Reilly, Fleming and Reilly); the contract under which the attorney of record served the said plaintiff; the defendant's response, filed on March 31, 1977, to said application; and the remainder of the record on file herein, the Commission finds:

1. Award. On February 3, 1977, the Commission entered a final award in the amount of \$600,000 in favor of the plaintiff tribe, 39 Ind. Cl. Comm. 355, 369. The final award was entered upon the joint motion of the parties for entry of final judgment filed herein, pursuant to a stipulation between the parties for settlement and entry of final judgment in this docket. Funds to satisfy this award have not yet been appropriated by Congress.

2. Contract Authority. The claim in Docket 342-G has been prosecuted pursuant to contract No. I-1-ind. 42260, dated December 5, 1949, between the Seneca Nation and the law firm of Earle and Reilly of New York, New York. The contract was approved by the Department of the Interior on January 27, 1950, for a period of ten years from that date. The contract was extended several times. The extension agreement for five years, beginning on January 27, 1960, was approved on September 13, 1961. An amendment and extension for a period of ten years beginning January 27, 1965, was approved on May 28, 1969. The last extension of the contract for a three-year period, beginning January 17, 1975, was approved on September 29, 1976. Therefore, contract No. I-1-ind. 42260 is currently in full force and effect. The contract provides that the attorneys shall receive as compensation ten percent of any and all sums recovered for the Indians.

3. Fee Application. On February 23, 1977, Paul G. Reilly filed an application for attorneys' fees herein, on behalf of the firm of Earle and Reilly (now Reilly, Fleming and Reilly). The fee of \$60,000 sought by the applicant represents ten percent (10%) of the final award of \$600,000 entered in this docket. (39 Ind. Cl. Comm. 355, 369.)

4. Notice to Parties. Notices of the filing of the fee application herein were mailed on March 1, 1977, by the Clerk of the Commission to the President of the Seneca Nation, the Department of Justice, and the Commissioner, Bureau of Indian Affairs, Department of the Interior. The Commission has received no response from the plaintiff tribe.

On March 31, 1977, we received the defendant's response, which included a copy of a letter from the Acting Associate Solicitor, Division of Indian Affairs, Department of the Interior, addressed to the Department of Justice and forwarding to that department a copy of a memorandum from the Acting Deputy Commissioner of Indian Affairs. The Acting Deputy Commissioner's statement, to which the Solicitor's Office concurred, indicated that the amount of the fee claimed (\$60,000) was in accordance with the terms of the attorneys' contract; therefore, the Bureau of Indian Affairs did not object to the allowance of said fee. According to its letter of March 31, 1977, the Department of Justice takes no position concerning the subject application.

5. Attorneys' Services and Fees. The attorneys herein, in the discharge of their contractual obligation, have rendered valuable professional services to their client in the successful prosecution before this Commission of the claim asserted in Docket 342-G, and they are entitled, pursuant to Section 15 of the Indian Claims Commission Act (60 Stat. 1049, 1053) and the terms of the aforesaid contract, to attorneys' fees in the amount claimed.

IT IS THEREFORE ORDERED that out of the funds to be appropriated to pay the final award entered herein on February 3, 1977, in favor of the Seneca Nation of Indians, there shall be disbursed to Paul G. Reilly, on behalf of the law firm of Earle and Reilly (now Reilly, Fleming and Reilly), the sum of \$60,000 for distribution by him to all participating attorneys or their legal representative in accordance with the interest, if any, such participating attorneys may have therein. The sum of \$60,000 shall be payment in full for all services rendered in the prosecution of the claim herein before this Commission.

Dated at Washington, D. C., this 5th day of May 1977

Margaret H. Pierce
Margaret H. Pierce, Commissioner

Brantley Blue
Brantley Blue, Commissioner

Jerome K. Kuykendall
Jerome K. Kuykendall, Chairman

John F. Vance
John F. Vance, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner