

## BEFORE THE INDIAN CLAIMS COMMISSION

THE STEILACOOM TRIBE OF INDIANS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 208
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER ALLOWING ATTORNEY'S FEE

HAVING CONSIDERED the application for attorney's fee filed on July 5, 1977, by the attorney of record for the plaintiff in this docket, the responses to the application filed by the Department of Justice and the Department of the Interior, the contracts of employment under which the plaintiff was represented, and the record of all proceedings in this case, the Commission finds and orders as follows:

1. Fee Application. The fee application was filed July 5, 1977, by Frederick W. Post on his own behalf and on behalf of Malcolm S. McLeod. Mr. Post is the present attorney of record for the plaintiff.
2. Attorneys' Contracts. This claim has been prosecuted under the contracts described in the above application for attorney's fee. Contract Symbol I-1-ind. 42628 was entered into August 15, 1951, between the Steilacoom Tribe of Indians of Washington and attorneys Frederick W. Post and Malcolm S. McLeod. The contract was conditionally approved September 18, 1951, by Associate Commissioner H. Rex Lee for a five-year

period beginning with the date of approval. The contract provided that \$750.00 be paid attorneys Post and McLeod for certain litigation expenses, and in the event of a recovery for the tribe, the \$750.00 should be deducted from the allowed contingent fee.

The Associate Commissioner's condition for approval was that the paragraph in the contract relating to the \$750.00 payment be deleted. If the tribe's financial status improved, the condition would be withdrawn and the payment made to the attorneys. The condition imposed by the Associate Commissioner was accepted by the Steilacoom Tribe and by attorneys Post and McLeod on September 25, 1951.

The \$750.00 was paid to the attorneys in three payments made between July 28, 1951, and May 15, 1952.

Contract Symbol 14-20-650 No. 424 was entered into October 13, 1956, and conditionally approved June 10, 1957, by Acting Deputy Commissioner Fred H. Massey for a ten-year period beginning September 18, 1956. The conditions were accepted by attorneys Post and McLeod on July 26, 1957, and by the Steilacoom Tribe on July 27, 1957. The contract was amended and extended for a three-year period from September 18, 1966. Portland Acting Area Director A. W. Galbraith conditionally approved the amendment and extension on August 2, 1968. The conditions imposed by the Acting Area Director were accepted by the tribe and attorney Post. Attorney McLeod had dropped from the case. This contract was extended for two more two-year periods, and expired September 17, 1975. In respect to attorney's fees, this contract provided, in essence, that the attorney's

compensation be contingent upon recovery for the tribe and the attorneys would receive no more than 10 percent of any and all sums recovered.

3. Final Award. On July 31, 1974, the Commission entered a final award in favor of the plaintiff in the amount of \$9,146.32. Funds to satisfy the award were appropriated by the Act of September 30, 1976, 90 Stat. 1416.

4. Amount of Fee Requested. The application for attorney's fee requests the sum of \$914.63, which is an amount equal to 10 percent of the final award entered in this docket. The petitioner states that he has reached an agreement with his former associate, Malcolm S. McLeod, who was a party to earlier contracts, that the compensation shall be divided equally between them.

5. Notice to Parties and Responses. Notice of the filing of the application for allowance of attorney's fee in this docket was mailed on July 11, 1977, by the Clerk of the Commission to the tribal representatives, the Department of Justice, and the Department of the Interior. No response has been received to date from the plaintiff.

On August 24, 1977, The Department of Justice filed a response which included a letter dated August 12, 1977, from the Acting Associate Solicitor, Division of Indian Affairs, and a memorandum dated August 5, 1977, from the Acting Deputy Commissioner of Indian Affairs.

The memorandum from the Acting Deputy Commissioner of Indian Affairs states that \$750.00 has been paid to the attorneys for litigation expenses and that the contract provides, in the event of recovery, this sum is to be deducted from the allowed contingent fee.

The letter from the Acting Associate Solicitor, Division of Indian Affairs, notes particularly that because the attorneys have been paid \$750.00, this sum should be deducted from the fee awarded.

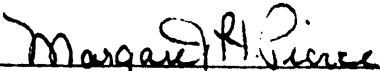
The Department of Justice takes no position with respect to the allowance of the attorney's fee.

6. Fee Determination. The attorneys in prosecuting the plaintiff's claim prepared the complaint and presented evidence on liability, damages, and offsets. Motions, findings of fact, and briefs were prepared and filed, and a final award was entered in favor of the tribe in the amount of \$9,146.32.

The amount claimed will be reduced by the sum of \$750.00 shown to have been paid by the plaintiff to the attorneys. On the basis of all of the foregoing, the Commission concludes that an attorney's fee of \$264.73, representing 10 percent of the final award, less \$750.00 already paid, is appropriate.

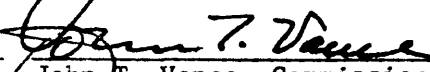
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award herein entered on July 31, 1974, there shall be disbursed the sum of \$264.73 to Frederick W. Post, attorney of record in this case, for distribution to all parties having an interest in such fee, in full satisfaction of any and all claims for legal services in this docket.

Dated at Washington, D. C., this 19th day of October 1977.

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner