

BEFORE THE INDIAN CLAIMS COMMISSION

SHAWNEE TRIBE OF INDIANS OF)	
OKLAHOMA, et al.,)	Docket No. 64
)	
EASTERN SHAWNEE TRIBE OF)	
OKLAHOMA, et al.,)	
)	Docket Nos. 335 and 338
ABSENTEE SHAWNEE TRIBE OF)	
OKLAHOMA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: March 10, 1978

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' EXPENSES

UPON CONSIDERATION of the petition for expenses filed July 18, 1977, by Jack Joseph, attorney of record for the Eastern Shawnee Tribe of Oklahoma, et al., and the Absentee Shawnee Tribe of Oklahoma, et al., plaintiffs in Dockets 335 and 338, on behalf of himself and the law firm of Brown, Dashow, Arons and Doran; the entire records of such cases; and the attorneys' contracts of employment, the Commission finds and orders as follows:

1. Award. On June 3, 1977, the Commission entered a single final award in the amount of \$1,745,146.86 in favor of the above-captioned plaintiffs in Dockets 335 and 338 and the plaintiffs in Docket 64, the Shawnee Tribe of Indians of Oklahoma, on behalf of the Shawnee Tribe as it existed in 1795, 40 Ind. Cl. Comm. at 173. The final award was entered

upon the joint motion therefor pursuant to a stipulation of all the parties for the entry of final judgment. Funds to satisfy the judgment have been appropriated by Public Law No. 95-240 (March 7, 1978).

2. Application. The petition herein for reimbursement of expenses was filed July 18, 1977, by Jack Joseph, attorney of record in Dockets 335 and 338, on behalf of himself and the law firm of Brown, Dashow, Arons and Doran. The contract attorneys are Jack Joseph and the law firm of Brown, Dashow, Arons and Doran. The petition seeks reimbursement for costs and expenses incurred and paid for by the petitioners in the prosecution of these cases in the amount of \$15,679.82. Credited against this sum, the sum of \$3,438.97 represents reimbursement to the petitioners of shared expenses by cooperating attorneys appearing in cases consolidated with these dockets. The petition requests reimbursement for expenses falling into the following categories:

(a) Expert assistance and research	\$ 3,856.13
(b) Travel	2,030.40
(c) Printing	6,809.79
(d) Photostating, mimeographing, microfilming, and other reproduction of exhibits	1,393.36
(e) Long distance telephone calls and telegrams	866.54
(f) Court reporting	531.75
(g) Postage, filing fees, and maps	<u>191.85</u>
	\$15,679.82
Less credits as aforementioned	<u>3,438.97</u>
	\$12,240.85

3. Attorneys' Contracts. Contract I-1-Ind. 42091 was entered into on February 7, 1947, by the Eastern Shawnee Tribe of Oklahoma and Henry J. and Charles Aaron, attorneys, of Chicago, Illinois. This contract was approved on May 7, 1948, for a period of ten years from the date of approval, provided an agreement between the attorneys and other firms of

attorneys (known as the Joint Efforts Agreement) became effective by October 1, 1948. The Joint Efforts Agreement did not become effective, however, until December 17, 1948, thus necessitating reinstatement of the attorneys' contract. The reinstated contract between the Eastern Shawnee Tribe of Oklahoma and the law firm of Aaron, Aaron, Schimberg and Hess (successors to Henry J. and Charles Aaron) was approved December 24, 1948, for a period of ten years from the date of approval.

An assignment executed by the law firm of Aaron, Aaron, Schimberg and Hess whereby that law firm conveyed all its rights, title, and interest in and to the contract to the law firm of Brown, Dashow and Ziedman was approved on July 6, 1951. At the request of attorney Jack Joseph of the law firm of Brown, Dashow and Langeluttig (formerly Brown, Dashow and Ziedman), the contract was extended for two periods of five years each. The contract was again amended on November 30, 1963, for a period of ten years to and including December 23, 1973. This amendment was approved on December 18, 1963.

On November 13, 1969, an amendment to the contract was approved which changed the names of the contract attorneys to Jack Joseph and the law firm of Brown, Dashow, Langeluttig, Arons and Doran. On April 21, 1977, an extension of the contract with Jack Joseph and the law firm of Brown, Dashow, Arons and Doran to December 23, 1978, was approved.

Contract No. I-1-ind. 42278 was entered into between the Absentee Shawnee Tribe of Oklahoma and the law firm of Brown, Dashow and Ziedman on April 25, 1950, and was approved on September 29, 1950, for a period

of ten years from the date of approval. The contract was later extended. By an amendment approved on April 13, 1970, attorney Jack Joseph was made a party to the contract. On April 28, 1977, an extension of the contract with Jack Joseph and the law firm of Brown, Dashow, Arons and Doran to September 27, 1978, was approved.

The contracts in Dockets 335 and 338, which were in force at all times the claimed expenses were incurred, provided for the payments to the attorneys for the reasonable expenses incurred in the prosecution of the claims.

4. Notice to the Parties. Pursuant to the Commission's rules, notice of the filing of the petition for expenses was mailed by the Clerk of the Commission on July 21, 1977, to the following:

Mr. James Greenfeather, Chief
Eastern Shawnee Tribe of Oklahoma
1423 Steve Owens Blvd.
P. O. Box 636
Miami, Oklahoma 74354

Mr. Danny Little Axe, Chief
Absentee Shawnee Tribe of Oklahoma
P. O. Box 1747
Shawnee, Oklahoma 74801

Honorable Raymond Butler
Acting Commissioner
Bureau of Indian Affairs
Attn: Louise Perkins, Tribal Operations
U. S. Department of the Interior
1951 Constitution Ave., N. W.
Washington, D. C. 20240

Honorable James W. Moorman
Acting Assistant Attorney General
Land and Natural Resources Division
Attn: D. Lee Stewart, Attorney
Indian Claims Section
U. S. Department of Justice
Washington, D. C. 20530

The Commission requested the interested parties to make such comments or give such information they felt the Commission should consider before making its determination regarding the petition herein.

5. Response of Parties. No reply was received from the tribal representatives. The Department of Justice responded by letter dated December 13, 1977, stating the ". . . defendant takes no position with respect to the application for reimbursement of expenses. . . ." That response incorporated a letter and memorandum received from the Department of the Interior. The memorandum from the Assistant Secretary for Indian Affairs stated that "[a]ll of the items appear to be reasonable and fall into categories of expenses that are usually considered proper for reimbursement. We have no objection to the allowance of the expenses in the total sum of \$15,679.82, less credits of \$3,438.97, for a net sum of \$12,240.85."

6. Determination of Reimbursable Expenses. The Commission after examination of the petition and the invoices and other supporting documents determines the petitioners are entitled to reimbursable expenses in the amount alleged except for the following items for the reasons herein stated:

<u>Item</u>	<u>Explanation</u>	<u>Amount Disallowed</u>
22	Error in addition, the total of sums listed amounts to \$355.08	\$ 12.19
83	The total sum expended according to invoices Nos. 36072 and 36073, is the sum of \$2,396.30	300.00
109	According to the charge assessed to each case benefitted by the expenditure, case No. 338 was assessed 1/8 of the sum of \$340.14, or the sum of \$42.52	42.52
Total		\$354.71

7. Expenses of Litigation in Docket 64. Mr. James R. Fitzharris, attorney of record for the Shawnee Tribe of Indians of Oklahoma, et al., plaintiffs in Docket 64, has not yet filed an application for reimbursement of the expenses of litigation incurred in the prosecution of the claims in that docket. Any such reimbursement will also come out of the single award entered in Dockets 64, 335 and 338.

8. Conclusion. Pursuant to section 15 of our act, rule 34(b) of the Commission's Rules of Procedure (25 C.F.R. § 503.34(b)), as amended, 39 Fed. Reg. 41173 (1974), the Commission's Policy Statement 102, issued July 15, 1968, the findings of fact entered herein, the employment contracts between the parties, and the entire record of expenditures incurred in the prosecution of the claims presented in these dockets, the Commission concludes that so much of the items excepted to in finding of fact No. 6, supra, are disallowed for reimbursement. The balance of the expenses herein claimed in the amount of \$11,886.14 are reasonable and proper for reimbursement.

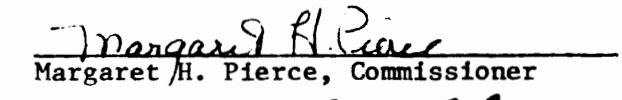
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the award in Dockets 64, 335, and 338, there be disbursed to Jack Joseph, Esq., attorney of record in Dockets 335 and 338, the sum of \$11,886.14 as reimbursement in full for expenses incurred in the prosecution of Dockets

335 and 338, said sum to be disbursed by Jack Joseph to all parties having an interest in these applications.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner