

BEFORE THE INDIAN CLAIMS COMMISSION

CITIZEN BAND OF POTAWATOMI INDIANS,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 71
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: June 28, 1978

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' EXPENSES

Having considered the entire record of litigation in this case and the petition for allowance of reimbursable expenses filed herein on February 3, 1978, by Jack Joseph, attorney of record for the plaintiff in this docket, together with the supporting schedules, vouchers and other documentation, and the contracts under which this case was prosecuted, the Commission finds as follows:

1. Award. On June 23, 1976, the Commission entered final judgment in Dockets 15-C, 29-A and 71, entitling the plaintiffs, on behalf of the Potawatomi Indians, to recover from the defendant the sum of \$4,239,200.00. 38 Ind. Cl. Comm. 389. This award was affirmed by the Court of Claims on October 19, 1977. Funds to satisfy this award were appropriated by the Act of March 7, 1978, Public Law 95-240.

2. Attorney Contracts. By its order of May 4, 1978, allowing attorneys' fees in this case, the Commission entered findings of fact

(No. 3(c)) covering in detail the attorney contracts under which this case was prosecuted. 41 Ind. Cl. Comm. 295. These findings are hereby incorporated by reference. The terms of the contract between plaintiffs and the petitioner provide for reimbursement, pursuant to Section 15 of the Indian Claims Commission Act of 1946, 60 Stat. 1049, of reasonable expenses incurred in the prosecution of the claim before this Commission.

3. The Application. The petitioner requests that the Commission enter an order for payment to him of the sum of \$18,932.63 as reimbursement for litigation expenses described in the petition and summarized by category below, said payment to be payable out of the final award entered in this docket. The claimed expenses, supported by vouchers, are as follows:

(a) Expert assistance, research and related expenses	\$ 13,228.82
(b) Travel expenses	2,011.07
(c) Printing of briefs and petitions	2,007.25
(d) Reproduction of exhibits	600.66
(e) Long distance telephone and telegraph	405.17
(f) Court Reporting	631.38
(g) Postage, filing fees and miscellaneous	<u>48.28</u>
Total expense	\$ 18,932.63

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 February 6, 1978, to the following:

Beverly Hughes, Secretary
Citizen Band of Potawatomi Indians
Route 5, Box 151
Shawnee, Oklahoma 74801

Honorable Forrest Gerard
Assistant Secretary of the Interior
for Indian Affairs
Attn: Louise Perkins, Tribal Operations
U. S. Department of the Interior
1951 Constitution Avenue, N.W.
Washington, D. C. 20240

Honorable James W. Moorman
Acting Assistant Attorney General
Land and Natural Resources Division
Attn: A. Donald Mileur, Chief
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 on the petition.

5. Response of Parties. No response was received from the tribal representatives. The Department of Justice responded by letter dated April 26, 1978. Incorporated therein was a letter dated April 20, 1978, from the Assistant Solicitor, Division of Indian Affairs, and a memorandum dated April 10, 1978, from the Deputy Assistant Secretary, Indian Affairs. That memorandum states that most of the items claimed appear to be reasonable and fall into the categories usually considered proper for reimbursement except for voucher #114 in the amount of \$144.00 which is also included in the amount claimed under voucher #115, and is for travel to Washington, D. C. Except for this item, the memorandum indicates no objection to

the allowance of the other items claimed. The Department of Justice takes no position with respect to the allowance of attorney expenses in this case.

6. Petition Adjustments. Upon examination of the petition and the documents filed in support thereof, the Commission determines the petitioner is entitled to be reimbursed for expenses incurred, except for the following item:

Beale Travel Service, Inc. Invoice #6457, in amount of \$144.00 for TWA Airlines ticket #8266:806:353 for round trip, coach, Chicago-Washington.

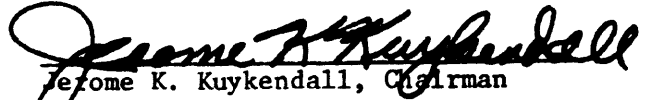
The claim for this item was withdrawn by the petitioner by letter to the Commission on May 1, 1978.

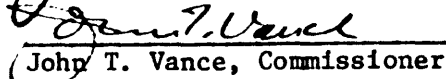
7. Determination of Reimbursable Expenses. Pursuant to Section 15 of the Indian Claims Commission Act, 25 U.S.C.A. 70n., and Rule 34(b) of the Commission's Rules of Procedure (25 C.F.R. §503.34(b), as amended, 39 Fed. Reg. 41173 (1974), the Commission's Policy Statement §102 issued July 15, 1968, the findings of fact entered herein, the employment contracts between the parties, and the entire record of expenses incurred in the prosecution of this case, the Commission concludes that the items claimed in the amount of \$18,788.63 are reasonable and proper for reimbursement.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the award in this docket there shall be disbursed to Jack Joseph, attorney

of record in this case, the sum of \$18,788.63 as reimbursement in full for expenses incurred in this docket, said sum to be disbursed by Jack Joseph to all parties having an interest in this application.

Dated at Washington, D. C., this 28th day of June 1978.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner

Richard W. Yarborough, Commissioner

Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner