

## BEFORE THE INDIAN CLAIMS COMMISSION

THE DELAWARE TRIBE OF INDIANS,	)	Docket No. 27-B
	)	
ABSENTEE DELAWARE TRIBE OF	)	
OKLAHOMA,	)	Docket No. 338
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: July 12, 1978

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' EXPENSES

UPON CONSIDERATION of the petition for expenses filed February 24, 1978, by Jack Joseph, attorney of record for the above-captioned plaintiffs, together with the vouchers and other documentation accompanying said petition, and the contracts under which the claims in these dockets were prosecuted, the Commission finds as follows:

1. Award. On December 16, 1977, the Commission entered a final award in Dockets 27-B and 338, entitling the above-captioned plaintiffs, on behalf of the Delaware Tribe of Indians, to recover from the defendant the sum of \$1,199,763.20. 41 Ind. Cl. Comm. 158.

2. Attorney Contracts. By its order of March 30, 1978, allowing attorneys' fees in these dockets, the Commission entered findings of fact (Nos. 3 (a) and (b)) concerning the attorney contracts under which these claims were prosecuted. 41 Ind. Cl. Comm. 242. These findings are

hereby incorporated by reference. The terms of the contracts 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 claims before this Commission.

3. 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 28, 1978, to the following:

Bruce Townsend, Chairman  
Delaware Tribe of Indians  
201 Denver Building  
7th and Denver  
Tulsa, Oklahoma 74119

Lawrence Snake, President  
Absentee Delaware Tribe of Oklahoma  
401 Steed Drive  
Midwest City, Oklahoma 73110

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: 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 on the petition.

4. Response of Parties. No response was received from the tribal representatives. The Department of Justice takes no position with respect to the allowance of attorney expenses in these dockets, as stated in its letter of June 28, 1978. Incorporated in the letter of the Department of Justice was a letter dated June 14, 1978, from the Associate Solicitor, Division of Indian Affairs, Department of the Interior, and a memorandum dated June 6, 1978, from the Assistant Secretary, Indian Affairs, Department of the Interior. The memorandum and letter from the Department of the Interior indicate no objection to the allowance of items claimed as expenses in the petition for reimbursement. The memorandum states that the items claimed appear to be reasonable and fall generally into those categories of expenses proper for reimbursement.

5. The Application. The petitioner requests that the Commission enter an order for payment to him of the sum of \$9,330.72 as reimbursement for litigation expenses, itemized in several categories in the petition and supported by vouchers.

6. Petition Adjustments. Upon examination of the petition and the documents filed in support thereof, the Commission determines that three adjustments of claimed expenses are in order:

1) Louis L. Rochmes, Law Offices, Voucher No. 34, \$42.23 for long distance telephone calls--on the itemized list of expenses are shown telephone calls totaling \$43.23, but through apparent clerical error only \$42.23 was claimed on the voucher, leaving a one dollar discrepancy in favor of petitioner. The Commission has included \$43.23 as the correct figure in its total of awarded expenses.

ii) Expenses of trip to Washington, Voucher No. 54, \$127.52 representing a 3/8 share of \$340.14 in expenses prorated among four tribes--this share should have been computed as \$127.55, creating a three cent discrepancy in favor of petitioner. The Commission has included \$127.55 as the correct figure in its total of awarded expenses.

iii) Under the SUMMARY OF REIMBURSABLE EXPENSES, the petition omitted a figure for court reporting, although vouchers for same were submitted with the petition and were reflected in the itemized list of expenses accompanying the petition. Court reporting in Vouchers 20 and 45 totals \$751.44, and the Commission has included this figure in its total of awarded expenses.

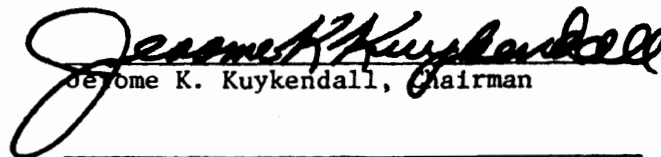
The claimed expenses, as adjusted, are as follows:

(a) Expert assistance, research and related expenses	\$4,996.76
(b) Travel expenses	1,057.58
(c) Printing of briefs and petitions	1,773.28
(d) Reproduction of exhibits	302.90
(e) Long distance telephone	447.04
(f) Court reporting	751.44
(g) Postage, filing fees and miscellaneous	2.75
	<hr/>
Total expenses	\$9,331.75

7. Determination of Reimbursable Expenses. Pursuant to Section 15 of the Indian Claims Commission Act, 25 U.S.C. § 70(n), 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 the claims presented in these dockets, the Commission

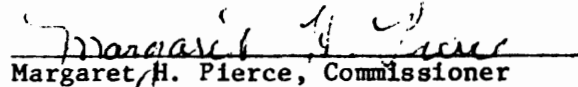
concludes that items claimed in the petition as adjusted are reasonable and proper for reimbursement in the amount of \$9,331.75.

IT IS THEREFORE ORDERED that out of funds appropriated to pay the award in Dockets 27-B and 338 there shall be disbursed to Jack Joseph, attorney of record, the sum of \$9,331.75 as reimbursement in full for expenses incurred in the prosecution of the claims of the Delaware Tribe of Indians, plaintiffs in Docket 27-B, and the Absentee Delaware Tribe of Oklahoma, plaintiffs in Docket 338, said sum to be disbursed in turn by Jack Joseph to all parties having an interest in this application.

  
Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner