

BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE INDIANS OF THE)	
STATE OF FLORIDA,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 73-A
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

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 dated March 1, 1978, filed herein by Roy L. Struble and Charles Bragman, attorneys for the Seminole Indians of the State of Florida, together with supporting schedules, vouchers, and other documentation, and the contracts under which these cases were prosecuted, the Commission finds as follows:

1. Award. On April 20, 1977, the Commission entered a final award in the amount of \$50,000.00 in favor of the plaintiff tribe. 40 Ind. Cl. Comm. 107, 125. This final award was entered upon the joint motion of the parties for entry of final judgment under these consolidated dockets, pursuant to a stipulation between the parties for entry of final judgment. Funds to pay this award are included in funds appropriated under section 1302 of the Supplemental Appropriation Act, 1957, 31 U.S.C. §724a, as amended by Title II, section 201, of the Supplemental Appropriation, 1978 (92 Stat. 107, 116-117).

2. Contractual Authority Regarding Litigation Expenses. By its order dated June 15, 1978, allowing attorneys' fees in this docket, the Commission entered findings of fact covering in detail the attorneys' contracts under which this case was prosecuted. 42 Ind. Cl. Comm. 155, 156. These findings are hereby incorporated by reference. With regard to the terms of the said contracts regarding litigation expenses, Contract No. K51C14200921, currently in full force and effect between the Seminole Indians of the State of Florida and the petitioning attorneys herein, provided that:

The attorneys shall also be allowed and reimbursed from the amount of any judgment received such actual expenses incurred by them as may be fixed by the court, or tribunal or, if the matter be settled without submission to a court or tribunal, then by the Secretary of the Interior or his authorized representative, or such amounts as may be agreed upon.

3. The Expense Application. The attorneys, in their petition of March 1, 1978, request the Commission to enter an order allowing them reimbursement of litigation expenses in the total amount of \$4,735.93, of which \$64.09 is claimed by Charles Bragman. The records and documents in support of this petition were filed by the attorneys herein in connection with their petition for the reimbursement of expenses filed in the principal Seminole case in the consolidated docket Nos. 73 and 151, currently under consideration by the Commission. Said records and documents are hereby made a part of this record.

Upon an examination of the entire record herein the Commission finds (1) that the correct total respecting the expenses incurred by

attorney Roy L. Struble is \$4,676.84, the difference of \$5.00 resulting from an error in carrying over to this claim item 25(a), p. 18 of Exhibit "A", and (2) expenses totalling \$146.88, improperly charged to Docket Nos. 73 and 151, and removed therefrom, are litigation expenses chargeable to this case. Accordingly, the Commission finds that the claim for litigation expenses in this docket total \$4,887.81, itemized as follows:

Roy L. Struble:	\$4,676.84
Charles Bragman:	64.09
Docket 73-A Expenses (Struble) Transferred from Dockets 73-151):	<u>146.88</u>
Total	\$4,887.81

4. Notice to the Parties. Pursuant to the rules of the Commission, a notice of the filing of the expense petition was mailed by the Clerk of the Commission on March 3, 1978, to the Department of Justice, the Department of the Interior, and to the tribal representative in Florida.

5. Response of Parties. The Department of Justice responded by letter dated September 11, 1978, incorporating therein a letter of August 31, 1978, from the Acting Associate Solicitor, Division of Indian Affairs (Interior), and a memorandum dated August 23, 1978, from the Assistant Secretary, Indian Affairs, Department of the Interior. The Department of Justice takes no position on the attorney expenses claimed. The memorandum from the Assistant Secretary, Indian Affairs states that the expenses claimed appear to be reasonable and fall into categories usually considered proper for reimbursement, stating further that the Bureau of Indian Affairs, had no objection to the allowance of the expenses claimed.

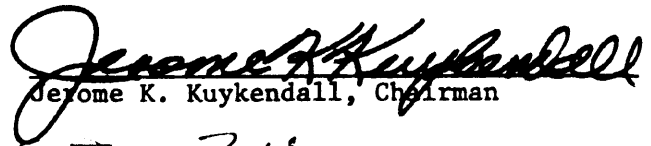
The tribal representative did not respond to the Commission's notice of March 3, 1978. However, the Seminole Tribe of Florida did respond on May 10, 1977, to a notice sent them in connection with the expense petition filed in Dockets 73 and 151 (consolidated). That response stated that the Tribal Council examined the supporting documentation and reviewed and verified all the items of said claim. The Tribal Council had no objections to the petition in Dockets 73 and 151. As indicated in finding 3, supra, the evidence in those dockets is identical to evidence submitted in this case. In addition, the expenses asserted in this claim, were originally included in Dockets 73 and 151 and removed therefrom by amended petition dated February 17, 1977. Accordingly, we interpret the tribal approval of May 10, 1977, to cover the entire record of expenses, including the expenses now asserted in this docket.

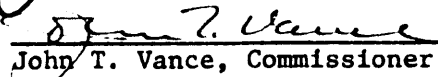
6. Determination of Reimbursable Expenses. Pursuant to Section 15 of the Indian Claims Commission Act, 25 U.S.C.A. 70n., and Rule 34(b) of the Commission's Rules of Procedure (25 C.F.R. §503.34(b), as amended, 39 Fed. Reg. 41173 (1974), the Commission's Policy Statement §102 issued July 15, 1968, the 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 \$4,887.81, are reasonable and proper for reimbursement.

IT IT THEREFORE ORDERED that out of the funds made available to pay the award in this docket there shall be disbursed to Roy L. Struble and

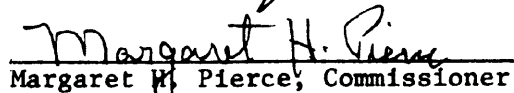
Charles Bragman, contract attorneys for the Seminole Indians of the State of Florida, the total sum of \$4,887.81, as reimbursement in full for all expenses incurred by them in this docket, said sum to be distributed by said attorneys to all parties having an interest in this application.

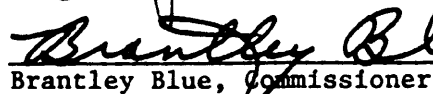
Dated at Washington, D. C., this 28th day of September 1978.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner