

BEFORE THE INDIAN CLAIMS COMMISSION

CITIZEN BAND OF POTAWATOMI	)	
INDIANS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Intervenors in
	)	Docket No. 29-D
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: September 29, 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 dated August 30, 1978, filed herein by Jack Joseph, attorney of record for the above-captioned tribe, 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 August 17, 1978, the Commission entered a final award in the amount of \$566,024.21 in favor of the plaintiffs and intervenors in this docket. 42 Ind. Cl. Comm. 350-51. Funds to pay this award are authorized to be appropriated by Section 22 of the Indian Claims Commission Act (25 U.S.C. § 70u) and are included in funds appropriated under Section 1302 of the Supplemental Appropriation Act, 1957 (31 U.S.C. § 724a) as amended by Section 201 of Public Law 95-240, approved March 7, 1978 (92 Stat. 107, 116).

2. Contractual Authority Regarding Litigation Expenses. Contract No. I-1-ind. 42065 was entered into April 17, 1948, by the Citizen Band of Potawatomi Indians and Attorneys Blake, Vorhees and Stewart of New York, and Adams, Moses and Culver of Chicago, Illinois. The contract was conditionally approved August 4, 1948, for a period of ten years from the date of approval. The contract provided that if a Joint Efforts Agreement was not approved by October 1, 1948, the contract would be void. The Joint Efforts Agreement was not approved by that date but a new Joint Efforts Agreement was approved December 17, 1948. The reinstatement of the original contract was approved December 24, 1948, subject to the same conditions. Thereafter, this contract was extended for five years from August 4, 1958. The extension was approved March 17, 1958.

Contract No. 14-20-0200-1837 was conditionally approved August 28, 1963. On January 7, 1966, a contract amendment was approved providing for the association of Attorney Louis L. Rochmes as of August 5, 1963. Another ten year extension from August 5, 1968, was approved on December 16, 1968.

On February 7, 1973, the association of Attorney Jack Joseph was approved.

The contract provides that the contract attorneys, in addition to the stipulated fees shall recover from the sums procured through their efforts in whole or in part reasonable expenses incurred in the prosecution of the claims.

3. The Expense Application. The attorney, in the petition of August 10, 1978, requests the Commission to enter an order allowing the reimbursement of litigation expenses in the total amount of \$1,022.10. In support of this petition, counsel has submitted expense vouchers and other supporting documentation.<sup>1/</sup>

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 August 30, 1978, to the Department of Justice, the Department of the Interior, and to the various tribal representatives in this case.

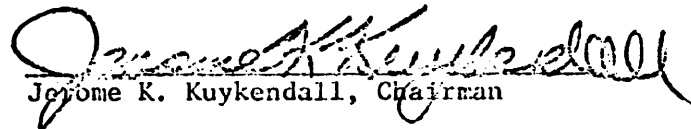
5. Response of Parties. The Department of Justice responded by letter dated September 26, 1978, incorporating therein a letter of September 25, 1978, from the Acting Associate Solicitor, Division of Indian Affairs (Interior), and a memorandum dated September 21, 1978, from the Director, Office of Indian Services, Department of the Interior. The Department of Justice takes no position on the attorney expenses claimed. The memorandum from the Director, Office of Indian Services, 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, citing the pertinent contract provisions permitting the reimbursement of expenses.

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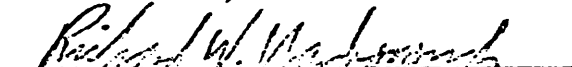
<sup>1/</sup> See, statement of apportionment of expenses filed as a supporting document with this petition.

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 \$1,022.10 are reasonable and proper for reimbursement.


IT IS THEREFORE ORDERED that out of funds made available to pay the award in this docket there shall be disbursed to Jack Joseph, attorney of record for the Citizen Band of Potawatomi Indians (Intervenors), the total sum of \$1,022.10, as reimbursement in full for all expenses incurred by him on behalf of said Band in this docket, said sum to be distributed by said attorney to all parties having an interest in this application.

  
 Jerome K. Kuykendall, Chairman

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 John T. Vance, Commissioner

  
 Richard W. Yarborough, Commissioner

  
 Margaret H. Pierce, Commissioner

  
 Brantley Blue, Commissioner