

BEFORE THE INDIAN CLAIMS COMMISSION

THE DELAWARE TRIBE OF INDIANS,)	Docket No. 27-E
)	
Plaintiffs,)	
)	
ABSENTEE DELAWARE TRIBE OF)	
OKLAHOMA, DELAWARE NATION,)	
ex rel., W. E. Exendine and)	
Myrtle Holder,)	Docket No. 202
)	
Plaintiffs,)	
)	
v.)	
)	
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 filed herein on August 29, 1978, by Jack Joseph, attorney of record for the plaintiffs in Docket 27-E and Docket 202, 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 August 17, 1973, the Commission entered a final award in this case in the amount of \$561,424.21 in favor of the plaintiffs. 42 Ind. Cl. Comm. 348. Funds to satisfy this award are to be made available pursuant to the Act of March 7, 1978, 92 Stat. 107.

2. Attorneys' Contracts - The Delaware Tribe of Indians. The claim presented in Docket 27-E was initiated pursuant to a contract, designated I-1-ind. 18359, between the Delaware Business Committee, acting on behalf of the Delaware Tribe of Indians, and Wesley E. Disney and Charles B. Rogers, attorneys. This contract was dated November 30, 1946, and had a specified initial term of 10 years from the date of approval by the Secretary of the Interior. The contract was approved by the Department of the Interior, after amendment dated February 18, 1947, on October 14, 1947.

On September 1, 1955, Wesley E. Disney and the Executrix of the Estate of Charles B. Rogers transferred full responsibility for the prosecution of this docket to the law firm of Pritzker, Pritzker and Clinton. This agreement was approved by the Commissioner of Indian Affairs on November 8, 1955.

Subsequent to the expiration of contract I-1-ind. 18359, a second contract, 14-20-0650-1216, was entered into by the Delaware Tribal Business Committee with the law firm of Pritzker, Pritzker and Clinton on March 13, 1962. After amendment agreed to by both parties, the Commissioner of Indian Affairs approved the contract on June 26, 1963. The contract was to be effective for 10 years from the date of approval by the Commissioner of Indian Affairs, with the option of a 5 year extension beyond that period.

On January 5, 1968, the association of Louis L. Rochmes with Pritzker, Pritzker and Clinton was approved by the Commissioner of Indian Affairs. On February 7, 1973, approval was given to a 5 year extension of the 1963 contract, and to the employment of Jack Joseph as associate counsel. This contract was extended on January 26, 1978, for 5 years from February 15, 1978.

3. Attorneys' Contracts - Absentee Delaware Tribe of Oklahoma, et al.

The claim presented in Docket 202 was initiated pursuant to a contract designated I-1-ind. 42264 between authorized tribal representatives of the Delaware Tribe of Indians, also known as the Absentee Delaware Tribe of Oklahoma, and the law firm of Pritzker, Pritzker and Clinton, dated November 30, 1949. The contract was for 10 years with a possible extension of another 5 years and was approved by the Bureau of the Indian Affairs on March 17, 1950. On September 1, 1955, Wesley E. Disney and the Executrix of the Estate of Charles B. Rogers, and Pritzker, Pritzker and Clinton agreed to divide all the attorney awards in this docket, 35 percent to Disney and the Rogers Estate and 65 percent to Pritzker, Pritzker and Clinton

In 1960 the 5 year extension of the contract was approved and on September 16, 1963, the association of Louis L. Rochmes in the prosecution of the suit was approved.

The parties entered into another contract, effective March 16, 1965, designated 14-20-0200-2047. This agreement was to be effective for 5 years,

with optional renewal periods of 3 years. This contract was approved by the Bureau of Indian Affairs on January 19, 1966. The contract was extended for 3 years beginning March 16, 1970, and 5 years from March 16, 1973. On May 3, 1973, approval was given to the association of the firm of Joseph and Friedman as additional claim attorneys. An extension of this contract for an additional 3 years to March 16, 1981, was approved on August 10, 1978.

4. Contractual Provisions-Expenses. The contracts in both Docket 27-E and Docket 202 provide for the reimbursement to the attorney of reasonable expenses incurred by him in the prosecution of the claims as may be determined by the Indian Claims Commission.

5. The Application. The attorney requests that the Commission enter an order for payment to him of the sum of \$2,255.94 as reimbursement for litigation expenses. The expenses are summarized as follows:

(a) Expert assistance and research expenses	\$1,132.37
(b) Travel and related expenses (airlines, rail-roads, car rental, hotels, meals, cabs, etc.)	335.69
(c) Printing of briefs and petitions	382.58
(d) Reproduction of Exhibits (photostating, mimeographing, microfilming, etc.)	86.96
(e) Long distance telephone expense	68.17
(f) Court reporting	242.66
(g) Postage	<u>7.51</u>
Total Expenses	\$2,255.94

6. 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 August 29, 1978, to the representatives of the plaintiff

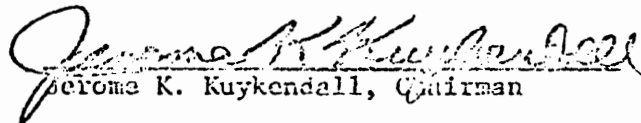
tribes, the Department of Justice, the Department of the Interior, and the attorney of record for the plaintiff tribes. The Commission requested the interested parties to make such comments or give such information they felt the Commission should consider before making its determination on the expense petition.

7. Response of Parties. No response was received from the tribal representatives. The Department of Justice responded by letter dated September 26, 1978, in which the defendant took no position with respect to the expense petition. Attached thereto was a copy of a letter September 25, 1978, from the Associate Solicitor, Division of Indian Affairs, the Department of the Interior, and a memorandum dated September 21, 1978, from the Director of the Office of Indian Services, the Department of the Interior, wherein the Director reports that the items claimed as reimbursable expenses were found to be reasonably supported by receipts, ledger entries, and notations, and that the expenses appear to fall within the categories of expenses proper for reimbursement as provided in the contracts. No objections were made to the reimbursement of expenses in the amount claimed.

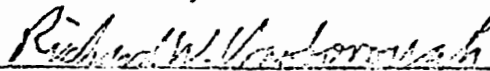
8. Determination of Reimbursable Expenses. Pursuant to Section 15 of the Indian Claims Commission Act, 25 U.S.C.A. 70n, and Rule 34(b) of the Commission's Rules of Procedure (25 C.F.R. §503.34(b), as amended, 39 Fed. Reg. 41173 (1974)), the Commission's Policy Statement §102 issued July 15, 1968, the 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 \$2,246.75 are reasonable and proper for reimbursement. The Commission has disallowed petitioner \$9.19 of the \$11.63 in laundry and valet services paid expert Chisholm under date of August 11, 1936.

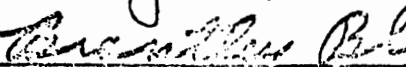
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the award in this docket there shall be disbursed to Jack Joseph, attorney of record in this case, the sum of \$2,246.75 as reimbursement in full for expenses incurred in this case, said sum to be distributed out of funds made available pursuant to Public Law 95-240, approved March 7, 1978, 92 Stat. 107.


 Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner


 Richard W. Yarbrough, Commissioner


 Margaret H. Pierce, Commissioner


 Brantley Blue, Commissioner