

BEFORE THE INDIAN CLAIMS COMMISSION

BAY MILLS INDIAN COMMUNITY,)	
SAULT STE. MARIE BANDS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 18-R
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' FEES

Upon consideration of the application for attorneys' fees filed on July 31, 1978, by Rodney J. Edwards, attorney of record for the plaintiffs herein, the responses thereto by the Department of Justice and the Department of the Interior, the attorney contracts under which the plaintiffs were represented, and the entire record in this docket, the Commission finds as follows:

1. Application for Attorneys' Fees. The application for attorneys' fees was filed on July 31, 1978, by Rodney J. Edwards, the attorney of record herein. The application is made for an award in the amount of \$1,500.00 for services rendered in this case. The amount requested represents 10 percent of the final award entered by the Commission in this case.

2. The Final Award. On December 26, 1973, the Commission entered a final award in this case in the amount of \$15,000.00 in favor of the

plaintiffs. 32 Ind. Cl. Comm. 303. The award was affirmed by the Court of Claims, in Appeal No. 15-74. Funds to satisfy the award were appropriated by the Act of December 18, 1975, 89 Stat. 826, 842.

3. Attorneys' Contracts. This suit in this docket was instituted and prosecuted for the plaintiffs pursuant to attorneys' contracts made with the Bay Mills Indian Community as follows:

(a) Contract dated July 7, 1948, approved October 6, 1948, bearing contract No. I-1-ind. 42084, with attorneys Paul L. Adams and Jay H. Hoag, for a period of 5 years from date of contract; and

(b) Contract dated June 2, 1949, approved October 19, 1949, bearing contract No. I-1-ind. 42200, with attorneys Paul L. Adams, James J. Fenlon, Austin L. Lathers, Jay H. Hoag and Clarence G. Lindquist, effective as of October 19, 1949, for a period of 10 years from the date of approval, which superseded contract No. I-1-ind. 42084 above.

(c) Contract dated July 29, 1960, approved September 29, 1961, bearing contract No. 14-20-0650 Cont. 112 with attorneys Paul L. Adams, Clarence G. Lindquist, Jay H. Hoag, Edward L. Gruber, Rodney J. Edwards, James R. Fitzharris and Denis McGinn, effective for a period of 10 years from October 19, 1959.

(d) Contract dated February 17, 1971, approved February 26, 1971, bearing contract No. F50C14200461, with attorneys Jay H. Hoag, Rodney J. Edwards, Paul L. Adams and James R. Fitzharris for a period effective October 18, 1969, to date of contract and for 5 years from date of contract.

4. Assignments of Interests in Attorneys' Contracts.

(a) By agreement dated November 18, 1949, approved January 27, 1950, the attorneys named in contract numbered I-1-ind. 42200, identified in paragraph 3(b) above assigned interests in said contract amongst themselves and with other attorneys namely: G. Arthur Johnson, Vern R. Edwards, Rodney J. Edwards, Ward Winton, Thomas L. St. Germain Heirs, Herschel B. Fryberger, Jr., E. L. Gruber, Paul L. Adams, James J. Fenlon, H. J. Grannis, Austin L. Lathers, Jay H. Hoag, Clarence G. Lindquist, Preston Boyden, George E. McGrath and Patrick A. Burke.

(b) By assignment dated April 18, 1950, approved July 13, 1950, Austin L. Lathers, Jay H. Hoag and Clarence G. Lindquist, attorneys named in the Indian contract identified in paragraph 3(b) above assigned an interest in said contract to attorneys Denis McGinn and James R. Fitzharris.

(c) By an undated assignment approved June 30, 1958, Preston Boyden and George E. McGrath, attorneys named in the agreement dated November 18, 1949, identified above, reassigned a portion of their interest under the agreement to attorneys Denis McGinn and James R. Fitzharris.

(d) By agreement of May 22, 1961, approved December 20, 1962, Austin L. Lathers, Jay H. Hoag, Rodney J. Edwards and Clarence G. Lindquist, attorneys named in contracts numbered I-1-ind. 42200, and symbol 14-20-0650-1112, assigned an interest in their contracts to attorney Marvin J. Sonosky.

(e) By assignment dated February 25, 1965, approved June 28, 1965, Preston Boyden, attorney named in agreement dated November 18, 1949,

identified in paragraph 4(a) above, assigned all his interest under said agreement to Jay H. Hoag and Rodney J. Edwards.

(f) By assignment dated January 20, 1972, approved January 31, 1972, Patrick A. Burke, attorney named in agreement dated November 18, 1949, identified in paragraph 4(a) above, assigned all his interest under said agreement in equal shares to Rodney J. Edwards and Marvin J. Sonosky.

(g) By an assignment dated and approved effective July 20, 1973, George E. McGrath, attorney named in agreement dated November 18, 1949, identified in paragraph 4(a) above, assigned all his interest under said agreement to Rodney J. Edwards.

5. Deceased Attorneys. The following attorneys who had an interest in the attorneys' fee in Docket 18-R at the time of their death, are now deceased: Austin L. Lathers, Jay H. Hoag, Clarence G. Lindquist, Edward L. Gruber, Denis McGinn, Vern R. Edwards and H. J. Grannis.

6. Contract Provisions for Attorneys' Compensation. The aforesaid attorneys' contracts and renewals all provide for attorneys' compensation contingent upon recovery as such amount as the Commission may determine to be reasonable and equitable compensation for the services rendered, not to exceed ten per centum (10%) of recovery.

7. Notice to Parties. The Clerk of the Commission sent notices of the filing of the fee application to the representatives of the plaintiff tribes, the Department of Justice, the Department of the Interior, and to the attorney applicant. No response has been made by the representative of the plaintiff tribes.

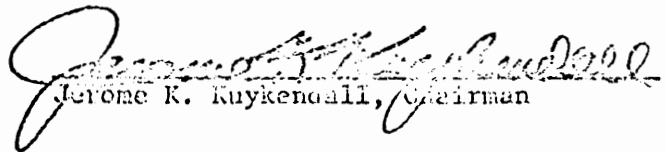
On September 26, 1978, the Department of Justice, taking no position with respect to the allowance of attorneys' fees in this case, forwarded to the Commission a letter dated September 22, 1978, from the Acting Associate Solicitor, Divisions of Indian Affairs, Department of the Interior, and a memorandum dated September 14, 1978, from the Deputy Assistant Secretary, Indian Affairs, Department of the Interior. The report of the Deputy Assistant Secretary, in which the Solicitor concurred, concluded that while the total fee allowable in the case as compensation earned by the attorneys exceeds \$1,500, the Bureau of Indian Affairs did not participate in the litigation; thus the Bureau did not have sufficient detailed information upon which to make a recommendation as to the amount earned by the claims attorney.

8. Attorneys Services. The attorneys for the plaintiffs in this docket undertook serious responsibilities and engaged in complex litigation pursuant to the agreements wherein the payment of compensation was contingent upon recovery. Considering the responsibilities assumed, the difficult problems of fact and law herein presented, the time and work involved in successfully litigating the issue of liability, the award obtained, the contingent nature of the compensation, and all appropriate factors pertinent to the determination of attorney fees under Section 15 of the Indian Claims Commission Act, 60 Stat. 1049, and standards established pursuant thereto, the Commission finds that the claims attorneys have rendered valuable legal services in prosecuting their client's claim.

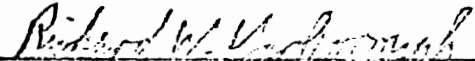
9. Conclusion. On the basis of the entire record in this docket, section 15 of the act, the above stated standards, and the contract in force between the attorneys and the plaintiffs, the Commission concludes that the attorneys herein have earned a gross fee of \$1,500.00 representing 10 percent of the award to the plaintiffs.

IT IS THEREFORE ORDERED that there shall be awarded to Rodney J. Edwards the amount of \$1,500.00 for distribution by them to all participating attorneys and other persons entitled to share in the fee. This sum shall represent payment in full of all claims for legal services in this docket.


Dated at Washington, D. C., this 29th day of September 1978.


Jerome K. Ruykencall, Chairman

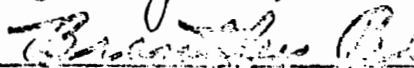
John T. Vance, Commissioner



Richard W. Yarborough, Commissioner



Margaret H. Pierce, Commissioner



Brantley Blue, Commissioner