

BEFORE THE INDIAN CLAIMS COMMISSION

THE CHOCTAW NATION,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 249
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
Decided: February 16, 1977		

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' FEES

Upon consideration of the application for attorneys' fees filed on December 13, 1976, by Jess Larson, attorney of record in this docket; the defendant's response filed on January 19, 1977, the several contracts of employment under which legal services have been performed herein, and assignment of interest in those contracts; the supporting documents and affidavit; and the entire record of all proceedings in this docket; the Commission finds and orders as follows:

1. Award. On July 15, 1976, the Commission entered a final award in the amount of \$250,000.00 in favor of the plaintiff tribe. 38 Ind. Cl. Comm. 441, 455. The final award was entered upon the joint motion of the parties for entry of final judgment under Docket 249, pursuant to a stipulation of settlement by the parties. Funds to satisfy the judgment were appropriated by Public Law 94-438, 90 Stat. 1415, approved September 30, 1976.

2. Contract Authority. In 1948 W. F. Semple and Grady Lewis entered into Contract No. I-1-ind. 42066 with the Choctaw Nation. The contract was approved by the Department of the Interior on July 27, 1948, for a period of five years from that date. In 1953 Mr. Lewis died. On June 13, 1963 W. F. Semple entered into Contract No. 14-20-0650, No. 1285, with the Choctaw Nation. This contract was made retroactive to cover work performed from August 9, 1951 to the date of its approval. The contract was approved by the Department of the Interior on August 30, 1963, for a period of five years, expiring June 13, 1968. In 1969 Mr. Semple died. The Choctaw Nation entered into a third contract, Contract No. GOOC 14201725, with Lon Kile on February 25, 1971. The contract was approved by the Department of the Interior on May 4, 1971, for a period of five years from the date of approval. Mr. Kile made an assignment of part of his interest in this docket to Jess Larson, the attorney of record, on December 20, 1971. The assignment was approved by the Department of the Interior on January 1, 1972. On March 25, 1976, the Department of the Interior approved a six month extension to the latter contract to enable the attorneys to complete settlement of this docket. All of the aforementioned contracts provide that the attorneys shall receive as compensation a fee not to exceed ten percent of any sums recovered for the Tribe.

3. Fee Application. The application for attorneys' fees filed herein by Jess Larson, attorney of record, is made pursuant to the approved attorneys' contract and requests the allowance of fees in the amount of \$25,000, which is ten percent (10%) of the final award entered in these dockets.

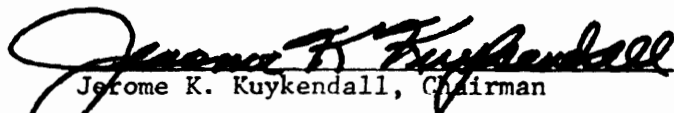
4. Notice to Parties. A notice of the filing of the fee application in this docket was mailed on December 14, 1976, by the Clerk of the Commission to the Chief of the Choctaw Nation, to the Department of Justice, and to the Commissioner, Bureau of Indian Affairs, Department of the Interior.

No response from the plaintiff tribe had been received by the Commission. The defendant's response, received on January 19, 1977, included a copy of a letter from the Assistant Solicitor for Indian Affairs, Department of the Interior, addressed to the Department of Justice and forwarding to that department a copy of a memorandum from the Commissioner of Indian Affairs. The Commissioner's statement, with which the Solicitor's Office concurred, indicated that the amount of the fee claimed (\$25,000) was in accordance with the terms of the attorneys' contract, and did not interpose any objection to the allowance thereof. The Department of Justice in its response states that it takes no position in the matter.


5. Attorneys' Services and Fees. The petition in the instant docket consisted of four specific accounting claims and a demand for a general accounting. Accounting reports were filed by defendant. Both parties filed motions, and the Commission held a hearing pertaining thereto in 1972. Following briefings by the parties, the Commission issued rulings and an order in 1973. Plaintiff filed exceptions to the accounting report in 1974. Subsequently the parties arrived at agreement on a compromise settlement of plaintiff's claims.

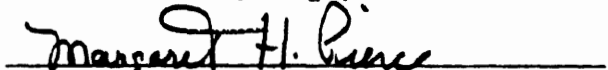
The attorneys herein, in discharge of their contractual obligation, rendered valuable legal services in successfully prosecuting and ultimately securing a final settlement for the plaintiff tribe in this docket. They are entitled, pursuant to section 15 of the Indian Claims Commission Act of August 13, 1946, 60 Stat. 1049, 1053, and the terms of the aforementioned contracts, to attorneys' fees in the amount claimed.

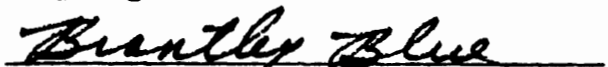
IT IS THEREFORE ORDERED that out of the funds appropriated by Public Law 94-438, approved September 30, 1976, to pay the final award entered herein on July 15, 1976, in favor of the Choctaw Nation, there shall be disbursed to Jess Larson, attorney of record, the sum of \$25,000 for distribution by him to all participating attorneys or their legal representatives in accordance with the interest, if any, such participating attorneys may have therein. This amount represents payment in full for all services rendered in the prosecution of this docket before this Commission.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner